United States Court of Appeals

for the Second Circuit

APPENDIX

74-1917
74-1946

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ORIGINAL

In The

United States Court of Appeals

For The Second Circuit

UNITED STATES OF AMERICA,

Appellee,

vs.

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON, and HARRY WEIS,

Appellants.

On Appeal from the United States District Court for the Southern District of New York.

APPENDIX

Volume I pp. 1a - 330a

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4/21/74

CRIMINAL DOCKET
UNITED STATES DISTRICT COURT JUDGE LASKER 73 CRIM. 56

1a

D. C. Form No. 100 Rev.

TITLE OF CASE	ATTORNEYS
THE UNITED STATES vs. ANTHONY POLITI, etal. for all defendants -- see page 2	For U.S.: Special Atty. Joel M. Fr[illegible] 264-1123 For Defendant:

STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 2 mailed	Clerk		2/21/74 2/21/74	[illegible] Politi		
J.S. 3 mailed -4	Marshal					
Violation	Docket fee					
Title 18 Sec. 1955 and 2 conducting illegal gambling business (ct.2) 371 conspiracy so to do (ct.1) 1623 Perjury (ct.3)						
THREE COUNTS						

DATE	PROCEEDINGS
2-16-73	Filed Indictment

— CV —

DATE	PROCEEDINGS
	UNITED STATES OF AMERICA
	vs.
	1) ANTHONY POLITI, ct. 1, 2
	2) GERALD POLITI, ct. 1, 2
	3) PHILIP POLITI, ct. 1, 2
	4) MICHAEL ROMAN, ct. 1, 2
	5) ROBERT PETERS ct. 1, 2
	6) MICHAEL CAMPOREALE ct. 3
	7) ALPHONSE CUZZO, ct. 1, 2
	8) ARTHUR FRANGELLO, ct. 1, 2
	9) LEONARD HARRISON, ct. 1, 2
	10) LAWRENCE JOHNSON, ct. 1, 2
	11) LOUIS VISCONTI, ct. 1, 2
	12) EDDIE WASHINGTON, ct. 1, 2
	13) HARRY WEIS ct. 1, 2
1-19-73	Filed Govt's notice of readiness for trial.
1-29-73	Anthony Polito, Michael Roman and Alphonse Cuzzo- Filed notice of appearance by Vincent W. Lanna, Esq., 30 Riverdale Ave., Yonkers, NY 10701 (914-963-2020)
1-29-73	Anthony Polito, M. Roman and A. Cuzzo- (Atty. present) plead not guilty. Ret'd defendants Court directs entry of not guilty plea. Case assigned to Judge Lasker. -- Knapp, J.
2-9-73	Robert Peters-Filed notice of appearance by atty Edward S. Panzer D'way Nyc 10007 349-0128
2-9-73	Peters- Filed application to extend bail limits.
2-22-73	Politi- Filed Notice of motion for bill of particulars, discovery, inspection and to dismiss.
2-22-73	Politi- Filed deft's memo. of law in support of motions.
2-23-73.	Gerald Politi, Phillip Politi andHarry Weis- Filed affidavit and of motion for bill of particulars and suppression.
	P. Politi- motion will be made in behalf of deft. for severance in view of his precarious state of health.

DATE	PROCEEDINGS
3-5-73	Camporeale-Filed affidavit and notice of motion for severance and for a Bill of Particulars.
3-6-73	Alphonse Cuzzo- Filed statement and notice of motion for suppression.
3-7-73	Michael Roman- Filed affidavit and notice of motions for discovery inspection, Brady material, Bill of Particulars, Statement of search and seizure, Government informer, Sec. 1955 of T. 18 is unconstitutional, inspection of Grand Jury minutes, misjoinder of counts severance etc.
3-7-73	Frangello and Visconti-Filed affidavit and notice of motions for a Bill of Particulars, to sever, to dismiss, inspect and copy and for suppression.
3-9-73	Politi-Filed statement and motions to suppress and for hearings
3-16-73	CONFERENCE held. Trial date postponed until 6-4-73 in room 619...Suppression hearing to be held 4-2-73 in room 501...Lasker,J.
3-22-73	MICHAEL ROMAN - Filed afdvt. & supplementary notice of motion to suppress
3-27-73	Philip Politi-Filed order that deft is to submit himself to [illegible] Public Health Service doctors for examination and the [illegible] shall pay a ~~xx~~ reasonable amount for the services. L[illegible]
4-2-73	Suppression hearing held.
4-3-73	Suppression hearing continued.
4-20-73	Roman- Filed memorandum of law.
4-25-73	FRANGELLO- Filed notice of motion and supporting memorandum to dismiss [illegible] notice of motion and supporting memorandum for an order to ~~under one hook~~
4-30-73	Filed Govt's memorandum of law.
4-30-73	Cuzzo-Filed stipulation between tho Atty's that premises [illegible] Ave, Yonkers are owned by Donna Cuzzo and were conveyed father in 1965 (see stip)

D. C. 109

DATE	PROCEEDINGS
4-30-73	Politi-Filed affidavit in opposition by the Govt.
5-11-73	Philip Politi-Filed order that the deft reportto Dr. Charles A. Bern 170 Maple Ave. Whiteplains N.Y. to submit for examination for mental competency and ordered that the U.S of America pay a reasonable a for said examination. Lasker,J.
5-30-73	Filed Goverments Bill of Particulars.
6-1-73	Filed Govt's Bill of Pariticulars.
6-1-73	Filed Govt's proposed examination of prospective jurors.
6-4-73	Case called - attys present defts present - adjd to June 11,1973 at 10:15 a.m. I
5-31-73	Frangello-Filed affidavit for writ of H/C ad pros.ret.6/4/73.
	Politi -Filed affidavit for writ of H/C ad Pros. ret.6/4/73.
5-30-73	Roman-Filed affidavit of writ of H/C ad Pros. ret.6-1-73.
	Cuzzo-Filed affidavit for writ H/C ad Pros. ret.6-1-73.
6-11-73	FILED WAIVERS(12) OF TRIAL BY JURY (all except CAMPOREALE) approv Lasker,J.
6-11-73	Filed memorandum defendants Anthony Politi, Michael Politi, Micha Robert Peters, Alphonse Cuzzo and Arthur Frangello have variously to suppress evidence and to attack the validity of the indict applicable, each defendant(including those not named above) has motions made by others. This memorandum disposes of such motions for Bill of Pariticulars and Discovery have previously been det ********** We have considered all the other motions of and find them unmeritorious. The motions of defendants are den So Ordered. Lasker, J. (see memo. on file) (m/n)
6-11-73	NON-JURY trial begun before Lasker, J.
6-12-73	Trial continued and concluded. Decision Reserved. Lasker,J.

Cont'd Page 5.

DATE	PROCEEDINGS
	5a
6-[illegible]-73	JOEL M. FRIEDMAN-Filed affdvt for a writ of habeas corpus directed to Warden, County Jail, Goshen, N.Y.-Ret. 6-11-73
6-[illegible]-73	JOEL M. FRIEDMAN-Filed affdvt for a writ of habeas corpus directed to Warden, Westchester County Pen., Valhalla, N.Y.-Ret. 6-11-73.
7-3-73	ARTHUR FRANGELLO - Filed W/H/C Ad Pros. Writ satisfied. LASKER, J. 6-12-73.
7-3-73	PHILIP POLITI- Filed W/H/C ad Pros. Writ satisfied. LASKER,J. 6-4-73.
7/3/73	PHILIP POLITI - Filed W/H/C Ad Pros. Writ satisfied. LASKER,J. 6-12-73.
7-3-73	MICHAEL ROMAN - Filed W/H/C Ad Pros. Writ satisfied. LASKER,J. 6-12-73
7-3-73	ARTHUR FRANGELLO - Filed W/H/C Ad Pros. Writ satisfied. LASKER,J. 6-4-73.
7-3-73	ALPHONSE CUZZO - Filed W/H/C Ad Pros. Writ satisfied. 6-12-73. LASKER,J.
9-26-73	ALL DEFTS. Except MICHAEL CAMPOREALE (attys Present) are found guilty on Counts 1 & 2. Sentence date 11-20-73. All defts. continued on present bail. LASKER,J.
10-15-73	Filed affdvt. of J. Lawrence Silverman.
10-16-73	Filed affdvts of Edward M. Shaw. See 71 Cr. 393. S.D.C.
10-24-73	Filed Opinion #39952 dated Oct. 23, 1973. Court finds the Government has proved its case against all defendant's beyond a reasonable doubt on each count and the defendants are found to be guilty as charged on each count. LASKER, J.
10-24-73	Filed copy of Opinion #39952.
11-29-73	PHILIP POLITI - Filed affdvt. for W/H/C ad Pros. Writ issued, Ret. 11-30-73.
11-29-73	MICHAEL ROMAN - Filed affdvt. for W/H/C Ad Pros. Writ issued, Ret. 11-30-73
11-29-73	HARRY WEIS - Filed affdvt. for W/H/C Ad Pros. Writ issued, Ret. 11-30-73.
2-11-74	PHILIP POLITI - Bail set at $10,000. P.R.B. secured by $2,000. cash. LASKER, J.
2-11-74	MICHAEL ROMAN - Deft. (Atty. Present) Filed Judgment and issued copies. It Is Adjudged that the deft. is hereby committed to the custody of the Atty. Gen. or his authorized representative for imprisonment for a period of ONE (1) YEAR commencing this date, the sentence to run concurrently with the sentence presently being served in Federal Custody and to pay a fine in the sum of $2,000. within 90 days hereof or the deft. to stand committed therof in liew of payment. Ct.3 is dismissed. LASKER,J.
2-21-74	ROMAN- Filed Notice of Appeal from from judgment entered on Feb. 11-74.

A TRUE COPY
RAYMOND F. BURGHARDT, Clerk
By [signature]
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

-v- : INDICTMENT

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON, and HARRY WEIS, : 73 Cr. 56

Defendants. :

COUNT ONE

The Grand Jury charges:

1. From on or about September 1, 1970, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS, the defendants, and Beaman Bowman, Jr., Jean Bujese, Michael Camporeale, James Carrington, Jr., Ramon Casimo, Thomas Collins, Donna Cuzzo, George Davis, Allan Handler, Patricia Hyatt, Roy Hyatt, Pasquale Maselli, Dorothy Plair, Hoke Roberts, Willie Scott and Eugene Woska, named herein as co-conspirators but not as defendants, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree, together and with each other, and with diverse other persons to the Grand Jury known and unknown, to commit offenses against the United States, to wit, to violate Title 18, United States Code, Section 1955.

2. It was part of said conspiracy that said defendants and co-conspirators would unlawfully, wilfully and knowingly conduct, finance, manage, supervise, direct and own an illegal gambling business, to wit, a policy gambling business (a) being

a violation of the laws of the State of New York, to wit, Penal Law Sections 225.05 and 225.15, (b) involving five or more persons who conduct, finance, manage, supervise, direct and own a part of said illegal gambling business, and (c) being and remaining in substantially continuous operation for a period in excess of thirty days and having a gross revenue of substantially in excess of two thousand dollars ($2,000) in any single day.

3. Among the means whereby said defendants carried out the conspiracy were the following:

a. The defendants ANTHONY POLITI, MICHAEL ROMAN and ROBERT PETERS organized, maintained, managed, directed and supervised the illegal policy gambling business.

b. Each day, six days a week, the illegal policy gambling business was conducted in the following manner:

(i) A great number of runners, not named as defendants or co-conspirators herein, received bets and money from bettors in Poughkeepsie, New York, Newburgh, New York and other areas between the hours of 11:00 A.M. and 4:00 P.M.

(ii) The defendants LAWRENCE JOHNSON, ARTHUR FRANGELLO, EDDIE WASHINGTON, and LEONARD HARRISON caused the betting slips and money accumulated by runners in the policy gambling business to be delivered by various means, no later than 4:30 P.M., to locations in Poughkeepsie, New York and Newburgh, New York, including 94 Garden Street, Poughkeepsie, New York, 199 South Street, Newburgh, New York and 23 Gidney Street, Newburgh, New York.

(iii) At or in the vicinity of these addresses and at approximately 5:00 P.M., the defendant LOUIS VISCONTI caused a separation of the betting slips and money collected from the runners, to protect against the loss of both the slips and money collected, in the event of an arrest.

(iv) The defendants GERALD POLITI, PHILIP POLITI, HARRY WEIS, ALPHONSE CUZZO and co-conspirator MICHAEL CAMPOREALE

then caused the accumulated betting slips to be transported in the early evening hours through various individuals, in some instances by direct deliveries and in other instances through the use of "drop" locations, to a policy gambling "bank" located at the residence of the defendant ALPHONSE CUZZO at 15 Eastview Avenue, Yonkers, New York.

(v) At the bank, the defendant ALPHONSE CUZZO caused the following functions to be performed: the computation on a separate adding machine tape for each runner of the total amounts bet as shown on each runner's betting slips; the computation of the commission payable to each runner, constituting a percentage of the total bets received by him; preparation of "hit slips," reflecting winning numbers for the day for the bettors from whom each runner had received bets, the amount bet on each such number, and the amount of the win payable to each winning bettor; preparation of a master adding machine tape reflecting the total amount of bets surrendered by each runner and showing the gross amount of bets for the entire operation for the day; and the entry of figures reflecting the day's transactions on the permanent books of the bank.

(vi) After completion of the computations and bank book entries described in sub-paragraph (v) above, and between the hours of approximately 8:30 P.M. and approximately 12:30 A.M., the defendant ALPHONSE CUZZO caused the separate adding machine tapes, hit slips and master tape referred to in sub-paragraph (v) to be transported, in some instances by direct delivery and in other instances by the use of drop locations, to the defendant MICHAEL ROMAN.

(vii) After the separation of betting slips and money collected referred to in sub-paragraph (iii) above, the defendant LOUIS VISCONTI, in the early evening hours, caused the money collected to be transported by direct delivery to the defendant MICHAEL ROMAN at various locations.

(viii) At various locations including 77 Broadway, Park Ridge, New Jersey, the defendant MICHAEL ROMAN caused the entry of figures reflecting the day's transactions to be made on a separate set of books maintained by him and then, by approximately 9:00 A.M., caused the moneys payable on winning numbers, together with the adding machine tapes for each runner, to be transported, through various individuals, to the defendant LOUIS VISCONTI, for ultimate return to the individual runners located in Poughkeepsie and Newburgh, New York.

c. In an effort to frustrate and impede investigation and prosecution of their illegal policy gambling business by federal and state law enforcement authorities, the defendants took the following steps:

(i) After the arrest of the defendants ANTHONY POLITI, PHILIP POLITI and MICHAEL ROMAN in possession of policy slips and records relating to the illegal policy gambling business, by New York State Police officers on January 26, 1971, at the Bobbin Inn Motel in Rockland County, New York, the defendants caused the bank for the policy gambling business to be moved from that location to other locations including 15 Eastview Avenue, Yonkers, New York.

(ii) After the arrest of the defendant MICHAEL ROMAN in possession of policy slips, records and money relating to the illegal policy gambling business, by Special Agents of the Federal Bureau of Investigation on June 2, 1972, at 77 Broadway, Park Ridge, New Jersey, the defendant MICHAEL ROMAN moved to other locations for performance of the functions described in paragraph 3b(viii) above.

(iii) After the arrest of the defendants EDDIE WASHINGTON and LEONARD HARRISON in possession of policy slips and money relating to the illegal policy gambling business, by Special Agents of the Federal Bureau of Investigation and New York State Police officers, on June 14, 1972, at 199 South Street, Newburgh, New York, the defendants caused co-conspirators George Davis, Dorothy Plair and others to be substituted for

defendants EDDIE WASHINGTON and LEONARD HARRISON in performing[10a] the functions described in paragraph 3b(ii) above; and further caused the delivery of betting slips and money accumulated by runners in the illegal policy gambling business to be made at new locations in Newburgh, New York, including 23 Gidney Street; and further caused co-conspirators Ramon Casiano and Beeman Bowman, Jr. to be substituted for defendants GERALD POLITI, PHILIP POLITI, HARRY WEIS and co-conspirator MICHAEL CAMPOREALE in performing the functions described in paragraph 3b(iv) above.

(iv) After the seizure, pursuant to search warrant, of policy slips and records relating to the illegal policy gambling business, by Special Agents of the Federal Bureau of Investigation and the New York State Police officers on August 29, 1972, at the policy bank at 15 Eastview Avenue, Yonkers, New York, and the arrest shortly thereafter of the defendant ALPHONSE CUZZO at the same address, the defendant ALPHONSE CUZZO caused the policy bank to be moved to other locations.

(v) After the arrest of the defendants ANTHONY POLITI, MICHAEL ROMAN and ROBERT PETERS in possession of policy records and money relating to the illegal policy gambling business, by Special Agents of the Federal Bureau of Investigation, on August 29, 1972, in an automobile in Yonkers, New York, said defendants changed the drop location at which the defendant ALPHONSE CUZZO caused delivery of the policy records referred to in paragraph 3b(vi) above, to the defendant MICHAEL ROMAN from a telephone booth near which the defendants ANTHONY POLITI, MICHAEL ROMAN and ROBERT PETERS were arrested to other telephone booths including one located in Bronx, New York.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the defendants, in the Southern District of New York and elsewhere, committed and caused to be committed the following overt acts, among others:

11a

1. On or about January 26, 1971, ANTHONY POLITI, MICHAEL ROMAN and PHILIP POLITI were at the Bobbin Inn Motel, Rockland County, New York.

2. On or about February 22, 1972, LOUIS VISCONTI met with Michael Camporeale at the A&P parking lot, Rt. 52, Beacon, New York.

3. On or about March 21, 1972, ANTHONY POLITI met with ARTHUR FRANGELLO and ROBERT PETERS in Vails Gate, New York.

4. On or about March 30, 1972, Michael Camporeale met with Patricia Hyatt in Yonkers, New York.

5. On or about April 27, 1972, Michael Camporeale met in an automobile with HARRY WEIS in the vicinity of Route 52 in Dutchess County, New York.

6. On or about April 27, 1972, Michael Camporeale deposited a parcel containing policy slips in a bush located behind the Great Eastern department store in Yonkers, New York.

7. On or about April 27, 1972, GERALD POLITI retrieved the parcel referred in OVERT ACT 6.

8. On or about May 1, 1972, ANTHONY POLITI, PHILIP POLITI, HARRY WEIS and ROBERT PETERS met in Yonkers, New York.

9. On or about June 2, 1972, MICHAEL ROMAN was at 77 Broadway, Park Ridge, New Jersey, in possession of the policy records and slips reflecting bets for a portion of the illegal policy gambling business on June 1, 1972, in the total amount of $15,764.25.

10. On or about June 14, 1972, LEONARD HARRISON and EDDIE WASHINGTON were at 199 South Street, Newburgh, New York.

11. On or about June 14, 1972, LOUIS VISCONTI drove his automobile in the vicinity of River Road, Newburgh, New York.

12. On or about August 29, 1972, GERALD POLITI placed an envelope containing policy records in a telephone booth located near a Gulf Station located at

the intersection of Saw Mill River Road and Tompkins Avenue, Yonkers, New York.

13. On or about August 29, 1972, ANTHONY POLITI, MICHAEL ROMAN, and ROBERT PETERS travelled in an automobile to the Gulf Service Station referred to in OVERT ACT 12.

14. On or about August 29, 1972, ROBERT PETERS retrieved the envelope containing policy records referred to in OVERT ACT 13.

(Title 18, United States Code, Section 371)

COUNT TWO

The Grand Jury further charges:

From on or about September 1, 1970, and substantially continuously thereafter, up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS, the defendants, did unlawfully, wilfully and knowingly conduct, finance, manage, supervise, direct and own an illegal gambling business, to wit, a policy business (a) being in violation of the laws of the State of New York, Penal Law Sections 225.05 and 225.15, (b) involving five or more persons who conduct, finance, manage, supervise, direct and own a part of said illegal gambling business and (c) remaining in substantially continuous operation for a period in excess of thirty days and having a gross revenue of two thousand dollars ($2,000) in any single day.

(Title 18, United States Code, Sections 1955 and 2)

COUNT THREE

The Grand Jury further charges:

1. On or about the 17th day of November, 1972, in the Southern District of New York, MICHAEL CAMPOREALE, the

defendant, while under oath as a witness before the Grand Jury of the United States of America, in a case pending before the said Grand Jury, unlawfully, wilfully and knowingly did make false material declarations as set forth below.

2. At the time and place aforesaid the Grand Jury was conducting an investigation to determine whether there had been committed in the Southern District of New York and elsewhere violations of the laws of the United States, to wit conspiracy and conduct of an illegal gambling business, in violation of Sections 371 and 1955, Title 18, United States Code, and other criminal violations.

3. It was a matter material to said Grand Jury to determine whether or not MICHAEL CAMPOREALE, the defendant, had met with or seen Louis Visconti or David Weygant on one or more occasions, and whether or not MICHAEL CAMPOREALE, the defendant, was able to recognize photographs of said individuals.

4. At the time and place aforesaid, while under oath, MICHAEL CAMPOREALE, the defendant, was shown Grand Jury Exhibits 3 and 3A of November 17, 1972, which were photographs of Louis Visconti and Grand Jury Exhibit 4 of November 17, 1972, which was a photograph of David Weygant.

5. MICHAEL CAMPOREALE, the defendant, unlawfully, wilfully and knowingly did declare as follows with respect to the aforesaid material matter:

Q Now, I hand you --

MR. FRIEDMAN: For the record, I am handing the witness the same exhibits that I handed to the previous witness --

Q .. and I ask you to look at these photographs and the photographs of the individuals that you know, would you please place on the left and the photographs of the individuals that you do not know, would you please on the right?

MR. FRIEDMAN: Let the record reflect that the witness has identified the exhibit from October 18, 1972, Exhibit No. 10; and the exhibit from November 17, 1972,

Exhibit No. 2; exhibit from October 18, 1972, Exhibit No. 12.

Q Now, with respect to all other exhibits that I just handed to you, do you recognize any of those individuals?

A No.

Q You have never met any of those other individuals?

A No, sir.

Q Are you positive of that?

A Yes, sir.

[Mr. Friedman:]

Let us go over this again. I just want to go over this.

With respect to Government's Exhibit I dated October 25, 1972, No. 3 and 3-A, dated November 17, 1972; No. 5 dated October 18, 1972; No. 6 dated October 18, 1972; No. 7 dated October 18, 1972; No. 20 dated October 25, 1972; No. 5 dated November 17, 1972, No. 4 dated November 17, 1972; No. 16 dated October 25, 1972; No. 21 dated October 25th; No. 11 dated October 18th; No. 17 dated October 18th, No. 15 dated October 25th; No. 17 dated October 25th; No. 18 dated October 25th and 14 dated October 18th, you never have seen those individuals; is that correct?

A As far as I can remember, no.

Q So you cannot remember seeing these fellows at all; is that correct?

A No, sir.

Q You are sure you cannot remember seeing them; is that correct?

A Yes.

Q You are sure you cannot remember ever seeing those individuals whose photographs I just showed you?

A Not that I can remember, no. I might have seen them.

Q You are sure you never remember having seen 15a
them; is that correct?

A Right.

6. The aforesaid testimony of MICHAEL CAMPOREALE, the defendant, as he then and there well knew and believed, was not true in that MICHAEL CAMPOREALE had in fact met Louis Visconti and David Weygant and did in fact remember having seen them.

(Title 18, United States Code, Section 1623)

Frank Filgiano
Foreman

Whitney North Seymour, Jr.
United States Attorney
Southern District of New York

JMF:feh

STIPULATION RE: TESTIMONY OF ROBERT HLAWATSCH

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., :

Defendants. :

----------x

STIPULATION

It is hereby stipulated and agreed tha if ROBERT HLAWATSCH were called on behalf of the United States, he would, after having been sworn, testify as follows:

He resides at, 15 Eastview Avenue, Yonkers, New York. Donna Cuzzo wife of Alphouse Cuzzo is his step daughter and also resides there. The basement at 15 Eastview, Yonkers, New York was jointly shared by Al Cuzzo and himself. The completely enclosed room in which all policy paraphanalia was found within the basement, was built and solely used by AC. It had a lock on the door.

STIPULATION RE: JOE TRIPODO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., :

Defendants. :

----------x

STIPULATION

It is hereby stipulated and agreed that if JOE TRIPODO were called on behalf of the United States, he would, after having been sworn, testify as follows:

On 11/27/71, Patricia Ann Hyatt was arrested by the New York State Police in possession of policy gambling material in Nyack, New York.

Government Exhibit----------is the material seized from PH.

STIPULATION RE: TESTIMONY OF DAN REIDY

UNITED STATES DISTRICT COURT
SOUTHERN DISTIRCT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., :

Defendants. :

----------x

STIPULATION

It is hereby stipulated and agreed that if DAN REIDY were called on behalf of the United States, he would, after having been sworn, testify as follows:

On 11/23/71, PP was arrested by the New York State Police on felony gambling charges. Seized from PP and his car were policy bets and records. Government Exhibits----

On 11/23/71, Joe Tripods, Harry Mills and AF was arrested by the New York State Police in the residence at 354 Washington Street, Newburgh. Said residence was searched resulting in felony gambling charges against AF and the seizure of policy bets and records.

Government Exhibts---------

STIPULATION RE:TESTIMONY OF AEREL SIMON

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., :

Defendants :

STIPULATION

It is hereby stipulated and agreed that if ACREL SIMON were called on behalf of the United States, he would, after having been sworn, testify as follows:

Acrel Simon lives in Newburgh, New York. In late 1968 he met AP in Newburg. AP told AS that he wanted to set up a policy business in Newburgh. He said he was offering between 25 and 30% of all bets taken, to each of the numbers writers and would pay 500 to 1 on all wins. AP asked AS to spread the word. AS told several black people including EW about the offer. A few days later AP told AS he was going to have a meeting at the Holiday Inn in Newburgh and that AS should tell the people he had talked to, to attend and ask for Tony Mancuso. AS went to the Holiday Inn as per his conversation with AP. There were 12 to 15 black people there invited by Acrel Simon. EW was present. AP told the people that he would pay up to 30% to each writer and up to 500 to 1 on a hit. AS agreed to work as pickup man and runner. EW told AP he was giving his numbers out already. AP said whoever you are giving your numbers out to, I'll meet with him.

Within about a week AH, EW, AP, AS and numbers writers met at EW's store in Newburgh, New York. EW introduced

AP to AH and told AP that this is the person he was giving his numbers to. AP told AH the rate he was giving. AH told AP he wanted to discuss EW's numbers with him.

A few days later AP, AH and AS met together. AP told AS that AH was now boss of Newburgh. AP told AS to pick up the policy work and return it to AH. AP told AS he was going to leave it to AH to set up the meeting spots.

For about the next 8 months AS picked up work from EW and others in Newburgh, 6 days a week, 3 hours a day and delivered them to AH. During this period of time AS observed writers dropping work off at EW's store and then AS would pick up the work. AS received $150 per week.

About a month after he started running for the operation, AH came to AS's house and told him that AP was there, AS talked to AP at the house, AP asked AS who he should pay in Newburgh so that the operation wouldn't be bothered. AS told AP he didn't know, but would take AP to someone who did. AS took AP to Earl Livingston. AP asked EL who he should pay inorder to be able to run the operation. EL said that AP couldn't just pay the people right off. However EL said would set up a party so that AP could meet the mayor and contribute to his campaign. He said he would invite the right people. EL told Tony he would have to pay for the whiskey and food and supply women. AP gave EL $200 towards setting up the party.

In approximately June, 1969, AH and AS went to Poughkipsee, New York and met LJ and several other people. AH told these individuals that the operation would pay up to 30% of all numbers written to each writer and 500 to 1 on all hits if they wished to join. AH told the group LJ would be the comptroller of the Poughkipsee area.

After this meeting AS picked up policy work and money from LJ in Pughkipsee and then would return to Newburgh,

where BW dropped off a package of policy work. AS seperated the work from the money and gave AH the money when AH came to AS's house. AS continued this for about a year. When AS started going to Poughkipsee his salary was increased to 300 per week. He worked 3 hours per day between about 3:30 and 6:30, 6 days per week.

About August 1970, AH told him to take the work from Newburgh only. About the same time in the day as before he received packages of policy work and money from Augie Smrek, EW, and LV. AS then seperated the money from the policy work. He gave the money to AH and the policy work to PP at various locations, which PP directed him to go to. He continued this from about August 1970 until June 71. He worked from about 3:30 to 6:30. He continued to get $300 per week and was paid in cash by AH. In about August, 1970, he was late in recieving the policy work. He got to PP late. PP told him to wait. PP placed a phone call. AP was on the phone and AS got on the phone and talked to AP. AP asked AS why he was late. AP told AS to follow PP. AS followed PP to Elmsford, New York. There they met with AP and 2 other men. AP told one of the other men to take the work from AS. AP told AS that he hoped ther is nothing big in the bag of policy work. As said he didn't know what was in there, and that he hadn't added any hits to it. The person who took the bag checked the contents and told AP that everything is OK. AP then told AS it was alright for him to leave.

During the period of August, 1970 until June, 1971 he started writing own numbers and made up to 700 per week for several weeks.

About June or July 1971 AH told AS that AP wanted to see him. AS, AH, AP, and PP met in Tarrytown, New York.

AH accused AS of having added winning numbers to the Policy work. AP asked AS what had happened. AS denied that he had added any numbers. AP told AS he would hear from him. AS was not allowed to work anymore.

About August, 1971, AS went to AF and asked him to speak to AP about a week later AF told AS to see AH. AS went to AH and then AH, AP and AS met for breakfast. AS asked when he could go back to work. AP said he would be in touch.

[illegible] DISTRICT COURT
[illegible]

UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., :

Defendants. :

STIPULATION

It is hereby stipulated and agreed that if PATRICIA HYATT were called on behalf of the United States, she would, after having been sworn, testify as follows:

She is the niece of ROBERT PETERS. Towards the end of June 1971 ROBERT PETERS asked if she wanted to work a couple hours a day running a package back and forth. He told her to meet Phil (Phil Politi) in a designated spot. ROBERT PETERS told her she would receive between $150 and $175 per week. She actually received $175 per week for as long as she worked. Her hours were 3 hours a day 6 days a week.

About a week later she met PHILIP POLITI in Breycrcliff, N. Y. He told her to follow him. They drove to the parking lot of the Grand Union Supermarket, Cornwall, N.Y. They waited in the car. ARTHUR FRANGELLO arrived. PHILIP POLITI introduced ARTHUR FRANGELLO to PATRICIA HYATT. PHILIP POLITI told PATRICIA HYATT this is who she would meet, and who would give her the policy work. ARTHUR FRANGELLO told PHILIP POLITI he wanted PATRICIA HYATT to come to his bar to pick up the work but PHILIP POLITI refused. ARTHUR FRANGELLO handed a package of policy work to PATRICIA HYATT. EDDIE WASHINGTON drove up with ALLAN HANDLER. PHILIP POLITI introduced EDDIE WASHINGTON to PATRICIA HYATT and EDDIE WASHINGTON handed a package of policy work to PATRICIA HYATT. PHILIP POLITI, EDDIE WASHINGTON, ALLAN HANDLER and ARTHUR FRANGELLO talked together for a few minutes outside the hearing range of PATRICIA HYATT. After meeting with the above, PHILIP POLITI took her to meet with HARRY WEIS in Westchester County. PHILIP POLITI told PATRICIA HYATT to hand

Highland Falls, N.Y. told her to make sure she watched carefully for police. She met with ARTHUR FRANGELLO, EDDIE WASHINGTON, and HARRY WEIS between 3:30 and 4:30 6 days a week, performing the identical functions for about 1-1/2 weeks. Each day she gave EDDIE WASHINGTON and ARTHUR FRANGELLO Adding Machine Tapes showing the totals from the previous day.

About mid-July 1971, in the vicinity of Newburgh, N. Y., EDDIE WASHINGTON brought LEONARD HARRISON with him. EDDIE WASHINGTON told PATRICIA HYATT that LEONARD HARRISON would bring EDDIE WASHINGTON's policy work down from now on. She continued picking up from LEONARD HARRISON until about mid-January 1972. Around the same period of time, ARTHUR FRANGELLO had a conversation with PATRICIA HYATT in Newburgh, N. Y. in which he told her to come to the Twilight Bar, Newburgh, N. Y. to pick up the policy work in the future. From then until she was arrested on November 22, 1971 she picked up ARTHUR FRANGELLO's work at the bar, 6 days per week. The procedure that was followed when picking up from ARTHUR FRANGELLO at the bar, was that she would park the car in the alley next to the bar and leave the previous day's adding machine tape under the visor, enter the bar, see ARTHUR FRANGELLO, and wait while ARTHUR FRANGELLO went outside and returned a few minutes later. After ARTHUR FRANGELLO returned she would go outside and the work was under the visor and the adding machine tape was gone. After picking up from ARTHUR FRANGELLO she delivered the tape to LEONARD HARRISON and took the work from him. She would then deliver ARTHUR FRANGELLO and LEONARD HARRISON's work to HARRY WEIS each day. All this took place between about 3:30 and 6:30. During the period of time between June 1971 and Christmas 1971, about once a month ARTHUR FRANGELLO told PATRICIA HYATT on different occasions to tell Phil to have his brother call ARTHUR FRANGELLO, and to tell Phil to have Tony call ARTHUR FRANGELLO. Towards the beginning of the time she started working. PHILIP POLITI told her never to mention Tony's name especially if arrested. About September 1971, ROBERT PETERS told PATRICIA HYATT, if Tony's name ever came up, to say

she knew nothing about it. 25a

On November 22, 1971 she was arrested by the New York State Police. On the day before she was arrested, HARRY WEIS told her that on the next day he would give some work to her and she should hide all three packages. He'd have someone pick up the work later. On the date she was arrested she picked up ARTHUR FRANGELLO and LEONARD HARRISON's policy work from Newburgh, N. Y. and drove to New York. Harry then drove up, threw a package of policy work into the car and drove past. The State Police then seized all three batches of work from PATRICIA HYATT. Gov. Ex._____, Gov. Ex._____a, Gov. Ex._____b, Gov. Ex._____c. Gov Ex. was received from ARTHUR FRANGELLO, Gov. Ex. was received from LEONARD HARRISON and Gov. Ex. was received from HARRY WEIS. In about November, 1971 PHILIP POLITI told PATRICIA HYATT if she was ever arrested in Tuckahoe, N. Y. she should ask for a Detective who was a friend of his.

The day after PATRICIA HYATT was arrested, i.e. November 23, 1971, she met MICHAEL CAMPOREALE. Until about the first week in December, 1971 she picked up policy work from ARTHUR FRANGELLO and LEONARD HARRISON in Newburgh, N.Y., and delivered it to MICHAEL CAMPOREALE in the Southern District of New York. (She also delivered the adding machine tapes as before.) In approximately the 1st week of December 1971, ARTHUR FRANGELLO had another man bring his package of policy work to her. PATRICIA HYATT complained to ARTHUR FRANGELLO on several occasions about this other man being late to the meet. PATRICIA HYATT also told ROBERT PETERS about the other man being late and ROBERT PETERS said he would talk to ARTHUR FRANGELLO about it. PATRICIA HYATT followed this procedure of picking up policy work from and delivering adding machine tapes to ARTHUR FRANGELLO's man and LEONARD HARRISON in the vicinity of Newburgh, N.Y. and then delivering the packages to MICHAEL CAMPOREALE, for six days per week, from the 1st week in

December 1971 until mid-January, 1972.

About the 2nd week in May 1972, ROBERT PETERS called and told PATRICIA HYATT to meet MICHAEL CAMPOREALE at Bear Mountain, N.Y. She went to Bear Mountain and MICHAEL CAMPOREALE introduced her to DAVID WEYGANT and EILEEN MORAN. MICHAEL CAMPOREALE told PATRICIA HYATT she would be picking up from EILEEN MORAN from now on. EILEEN MORAN gave a package to PATRICIA HYATT. For the next few days EILEEN MORAN and PATRICIA HYATT met at Bear Mount and EILEEN MORAN handed a package of policy work to PATRICIA HYATT. Then they changed the meeting place from Bear Mountain to various locations, around Peekskill and Nyack, N.Y. She continued picking up the policy work from EILEEN MORAN from about the beginning of the second week in May, 1972 until the beginning of the second week in June, 1972. Towards the third week of May 1972 PATRICIA HYATT told EILEEN MORAN she was being followed. The next day LOUIS VISCONTI drove behind EILEEN MORAN. LOUIS VISCONTI carried the work with him and handed it to PATRICIA HYATT. LOUIS VISCONTI said EILEEN MORAN had not been followed. However, PATRICIA HYATT pointed out a gold Federal Bureau of Investigation car on top of the hill. She picked packages up from EILEEN MORAN between 3:30 and 5:30 each day, six days a week.

For the first week she started picking up from EILEEN MORAN she delivered the package received from EILEEN MORAN to GERALD POLITI. After the first week she hid the package. GERALD POLITI told her where to hide it. Towards the end of May, 1972 PATRICIA HYATT had a conversation with PHILIP POLITI in the Boat Club, New Rochelle, N.Y. He said he had found place under a log. He took her to the place located in the vicinity of City Island, N. Y. He told her this was the ultimate spot, that the work could be put there for years and no one would find it. He told her to put the work in plastic bags. For the next few days she placed the work under the log. Then, she was called by PHILIP POLITI on the phone. He told her to meet him. She did and he told her that someone

had put the log over the work and that he had seen people with cameras taking pictures of him. PHILIP POLITI told her EILEEN MORAN was delivering the work late, there were too many hits, and that she better get it in on time, because he was paying her salary. After that she again delivered the policy work to GERALD POLITI until the beginning of the first week in June 1972. She did this 6 days per week. She was arrested June 13, 1972 by the Federal Bureau of Investigation. About a week before she was arrested she had a conversation on a side street in Westchester County with GERALD POLITI. She handed the work to GERALD POLITI. GERALD POLITI told her he was upset with her because the Federal Bureau of Investigation was following her.

In October 1972 she was subpoenaed, granted immunity and testified before the Grand Jury. After she was subpoenaed but before she testified at the Grand Jury, ROBERT PETERS talked to her in Yonkers, N.Y. ROBERT PETERS told her to tell the Grand Jury that she knew all the people she had met in connection with the operation, however to make up stories as to how she knew them. He told her not to say that the people were involved in gambling. He further stated that she should say she was going out with Art Frangello. He said since she had immunity she wouldn't get caught if she made up the stories.

STIPULATION RE: RAYMOND SHAW RE GOVERNMENT EXHIBIT 2a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- : 73 Cr. 56

ANTHONY POLITI, et al., :

Defendants. :

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STIPULATION

It is hereby stipulated and agreed that if RAYMOND SHAW were called on behalf of the United States, he would, after having been sworn, testify as follows:

That Government Exhibit ~~43~~ 24 is a true and correct tape recording of his conversation with ANTHONY POLITI on October 28, 1970 and made contemporaneous therewith.

STIPULATION RE: TESTIMONY OF JOE TRIPODO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., : 73CR56

Defendants. :

----------x

STIPULATION

It is hereby stipulated and agreed that if JOE TRIPODO were called on behalf of the United States, he would, after having been sworn, testify as follows:

On 11/27/71, Patricia Ann Hyatt was arrested by the New York State Police in possession of policy gambling material in Nyack, New York.

Government Exhibit 3A, 3B, 3C is the material seized from P.HYATT.

STIPULATION RE: GAMBLING MATERIAL REFERRING TO BEAMAN BOWMAN

UNITED STATES OF AMERICA

STIPULATION
73 Cr. 56

-v-

ANTHONY POLITI, et al., Defendants.

It is stipulated by and between the parties that messages found on policy gambling material referring to BEAMAN BOWMAN were observed on Government Exhibit 130 located at the feet of MICHAEL ROMAN on August 29, 1972 in Yonkers, New York and on Government Exhibit 61 located on several items at 77 Broadway, Park Ridge, New Jersey on June 2, 1972.

These message found on August 29 was "BEAMAN used $70 of the money to fix radiator and to front shocks on his car." The messages found at 77 Broadway were "BEAMAN used $10 of the money to fix something on his car," "BEAMAN took $100 of his salary," and "BEAMAN took the rest of his salary." MICHAEL ROMAN's fingerprints were found on the slip of paper bearing the last statement.

Federal Bureau of Investigation Agents if called, would testify after being sworn that on August 23rd, August 24th and August 25th, 1972, (Wednesday, Thursday and Friday) at approximately 4:20 P.M. GEORGE DAVIS carried a package into 23 Gidney Avenue, Newburgh. Shortly thereafter, DOROTHY PLAIR entered and left the same address carrying a large purse, PLAIR met RAMON CASIANO in Newburgh, put her purse in his car and then retrieved it less than a minute later, CASIANO then met BEAMAN BOWMAN in Beacon, then BOWMAN met ALPHONSE CUZZO in Westchester County, New York.

STIPULATION FOR DOUBLE JEOPARDY CONTENTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- : 73 Cr. 56

ANTHONY POLITI, et al., :

Defendants. :

----------x

STIPULATION FOR DOUBLE
JEOPARDY CONTENTION

It is hereby stipulated and agreed that approximately 24 of the approximately 58 runner codes identified in seizures presented at the trial of 71 Cr. 857 have been found among the approximately 175 runner codes identified at the Bobbin Inn Motel seizure. Additionally, approximately 11 of the 20 runner codes found on the adding machine tape seized from ROBERT PETERS on August 29, 1971 have been found among the 58 runner codes identified in the seizures presented at the trial of 71 Cr. 857.

STIPULATION RE: RELATIONSHIP OF POLITIS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- : 73 CR 56

ANTHONY POLITI, et al., :

Defendants. :

----------x

STIPULATION

It is hereby stipulated and agreed by and between the parties that ANTHONY POLITI and PHILIP POLITI are brothers and GERALD POLITI is the son of PHILIP POLITI.

STIPULATION RE: TESTIMONY OF DAN REIDY, JOE TRIPODO AND HARRY MILLS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- : 73 CR 56

ANTHONY POLITI, et al., :

Defendants. :

----------x

STIPULATION

It is hereby stipulated and agreed that if DAN REIDY, JOE TRIPODO and HARRY MILLS were called on behalf of the United States, they would, after having been sworn, testify as follows:

On November 23, 1971, PHILIP POLITI was arrested by the New York State Police on felony gambling charges. Seized from PHILIP POLITI and his car were policy bets and records. Gov. Exhibits 4

On November 23, 1971, ARTHUR FRANGELLO was arrested by the New York State Police in the residence at 354 Washington Street, Newburgh. Said residence was searched and the following bets and records were seized:

Government Exhibits 5

ANTHONY POLITI
Defendant

VINCENT LANNA, ESQ.
Defense Counsel

PHILIP POLITI
Defendant

GERALD POLITI
Defendant

HARRY WEIS
Defendant

IRVING ANOLIK, ESQ.
Defense Counsel

EDDIE WASHINGTON
Defendant

LEONARD HARRISON
Defendant

LAWRENCE JOHNSON
Defendant

DAVID BLACKSTONE, ESQ.
Defense Counsel

ARTHUR FRANGELLO

LOUIS VISCONTI
Defendant

PATRICK M. WALL, ESQ.
Defense Counsel

ROBERT PETERS
Defendant

EDWARD S. PANZER, ESQ.
Defense Counsel

MICHAEL ROMAN
Defendant

HERALD PRICE FAHRINGER, ESQ.
Defense Counsel

ANTHONY CUZZO
Defendant

GEORGE J. BELLANTONI, ESQ.
Defense Counsel

JOEL M. FRIEDMAN
Special Attorney
U. S. Department of Justice

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- : 73 CR 56

ANTHONY POLITI, et al., :

Defendants. :

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STIPULATION

It is hereby stipulated and agreed that if DAN REIDY and JOE TRIPODO, of the New York State Police, were called on behalf of the United States, they would, after having been sworn, testify as follows:

On Wednesday, November 10, Thursday, November 11, and Friday, November 12, 1971, ARTHUR FRANGELLO met PATRICIA HYATT in the rear of 354 Washington St., Newburgh, N.Y.; PATRICIA HYATT then met HARRY WEIS for approximately 5 minutes in Rockland County, New York; PATRICIA HYATT then met PHILIP POLITI at another location in Rockland County.

On Tuesday, April 4, 1972, LEONARD HARRISON received an envelope from an unknown male, met another male, then met EDDIE WASHINGTON in front of/and entered 199 South St., Newburgh together where they stayed for 20 minutes. LEONARD HARRISON and EDDIE WASHINGTON left 199 South St. at 4:50 p.m. LEONARD HARRISON then met PATRICIA HYATT in Cornwall, N. Y. and handed her a package.

On Wednesday, April 5, 1972, LEONARD HARRISON followed same pattern as above except, in addition, he met ARTHUR FRANGELLO in Newburgh after meeting EDDIE WASHINGTON before meeting PATRICIA HYATT. LEONARD HARRISON followed this same pattern on Thursday, April 6 and Friday, April 7, 1972.

On Wednesday, May 24, Thursday, May 25, Friday, May 26 and Tuesday, June 6, Wednesday, June 7, Thursday, June 8, and Friday, June 9, 1972, EDDIE WASHINGTON waited in front of 199 South St. for LEONARD HARRISON to arrive at which time both

On Monday, November 8, Tuesday, November 9, Thursday, November 11, Friday, November 12, Monday, November 15, Tuesday, November 16, Wednesday, November 17, Thursday, November 18 and Friday, November 19, 1971, PHILIP POLITI met a negro male in Fort Montgomery, N. Y. area at approximately 4:00 p.m., then met PATRICIA HYATT in Rockland County at approximately 5:30 p.m. PHILIP POLITI received envelopes from the above negro male on Monday, November 8 and Thursday, November 11, 1971.

STIPULATION RE: TESTIMONY OF LANCE EMORY, CARL ADAMITZ AND JEFF McMURTREY

UNITED STATES DISTRICT COURT
SOUTHRTN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- : 73 Cr. 56

ANTHONY POLITI, et al., :

Defendants. :

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STIPULATION

It is hereby stipulated and agreed that if LANCE EMORY, CARL ADAMITZ and JEFF McMURTREY were called on behalf of the United States, he would, after having been sworn, testify as follows:

That Government Exhibit 23(a) is a a transcript of Government Exhibit 24. Said transcript was prepared by them and is accurate to the best of their ability.

STIPULATION RE: TESTIMONY OF ACREL SIMON

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA :

- v - :

ANTHONY POLITI, ET AL, : 73 Cr. 56

Defendants. :

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STIPULATION

It is hereby stipulated and agreed that if ACREL SIMON were called on behalf of the United States, he would, after having been sworn, testify as follows:

Acrel Simon lives in Newburgh, New York. In late 1968, he met Anthony Politi in Newburgh. Anthony Polity told Acrel Simon that he wanted to set up a policy business in Newburgh. He said he was offering between 25 and 30% of all bets taken, to each of the numbers writers and would pay 500 to 1 on all wins. Anthony Politi asked Acrel Simon to spread the word. Acrel Simon told several black people including Eddie Washington about the offer. A few days later Anthony Politi told Acrel Simon he was going to have a meeting at the Holiday Inn in Newburgh and that Acrel Simon should tell the people he had talked to, to attend and ask for Tony Mancuso. Acrel Simon went to the Holiday Inn as per his conversation with Anthony Politi. There were 12 to 15 black people there invited by Acrel Simon. Eddie Washington was present. Anthony Polity told the people that he would pay up to 30% to each writer and up to 500 to 1 on a hit. Acrel Simon agreed to work as pickup man and runner. Eddie Washington told Anthony Polity he was giving his numbers out already. Anthony Politi said whoever you are giving your numbers out to, I'll meet with him.

Within about a week Allan Handler, Eddie Washington, Anthony Polity, Acrel Simon and numbers writers met at Eddie Washington's store in Newburgh, New York. Eddie Washington introduced

Anthony Politi to Allan Handler and told Anthony Politi that this is the person he was giving his numbers to. Anthony Politi told Allan Handler the rate he was giving. Allan Handler told Anthony Politi he wanted to discuss Eddie Washington's numbers with him.

A few days later Anthony Politi, Allan Handler and Acrel Simon met together. Anthony Politi told Acrel Simon that Allan Handler was now boss of Newburgh. Anthony Politi told Acrel Simon to pick up the policy work and return it to Allan Handler. Anthony Politi told Acrel Simon he was going to leave it to Allan Handler to set up the meeting spots.

For about the next 8 months, Acrel Simon picked up work from Eddie Washington and others in Newburgh, 6 days a week, 3 hours a day and delivered them to Allan Handler. During this period of time Acrel Simon observed writers dropping work off at Eddie Washington's store and then Acrel Simon would pick up the work. Acrel Simon received $150 per week.

About a month after he started running for the operation, Allan Handler came to Acrel Simon's house with Anthony Politi. Acrel Simon talked to Anthony Politi at the house. Anthony Politi asked Acrel Simon who he should pay in Newburgh so that the operation wouldn't be bothered. Acrel Simon told Anthony Politi he didn't know, but would take Anthony Politi to someone who did. Acrel Simon took Anthony Politi to Earl Livingston. Anthony Politi asked Earl Livingston who he should pay in order to be able to run the operation. Earl Livingston said that Anthony Politi couldn't just pay the people without preliminaries. However, Earl Livingston said he would set up a party so that Anthony Politi could meet the Mayor and contribute to his campaign. He said he would invite the right people. Earl Livingston told Tony he would have to pay for the whiskey and food and supply women. Anthony Politi gave Earl Livingston $200 towards setting up the party.

In approximately June, 1969, Allan Handler and Acrel Simon went to Poughkeepsie, New York and met Lawrence Johnson and several other people. Allan Handler told these individuals that the operation would pay up to 30% of all numbers written to each writer and 500 to 1 on all hits if they wished to join. Allan Handler told the group Lawrence Johnson would be the comptroller of the Poughkeepsie area.

After this meeting, Acrel Simon picked up policy work and money from Lawrence Johnson in Poughkeepsie and then returned to Newburgh where Eddie Washington dropped off a package of policy work to him. Acrel Simon separated the work from the money and gave Allan Handler the money when Allan Handler came to Acrel Simon's house. Acrel Simon continued this for about a year. When Acrel Simon started going to Poughkeepsie, his salary was increased to $300 per week. He worked 3 hours per day between about 3:30 and 6:30, 6 days a week.

About August 1970, Allan Handler told him to take the work from Newburgh only. About the same time in the day, as previous, he received packages of policy work and money from Augie Smrek, Eddie Washington and Louis Visconti. Acrel Simon then separated the money from the policy work. He gave the money to Allan Handler and the policy work to Philip Politi at various locations, which Philip Politi directed him to go to. He continued this 6 days a week from about August, 1970 until June, 1971. He worked from about 3:30 to 6:30. He continued to get $300 per week and was paid in cash by Allan Handler. In about August, 1970, he was late in receiving the policy work. He got to Philip Politi late. Philip Politi told him to wait. Philip Politi placed a phone call. Anthony Politi was on the phone and Acrel Simon got on the phone and talked to Anthony Politi. Anthony Politi asked Acrel Simon why he was late. Anthony Politi told Acrel Simon to follow Philip Politi. Acrel Simon followed Philip Politi to Elmsford, New York. There they met with

Anthony Politi and 2 other men. Anthony Politi told one of the other men to take the work from Acrel Simon. Anthony Politi told Acrel Simon that he hoped there is nothing big in the bag of policy work. Acrel Simon said he didn't know what was in there, and that he hadn't added any hits to it. The person who took the bag checked the contents and told Anthony Politi that everything is OK. Anthony Politi then told Acrel Simon it was alright for him to leave.

During the period of August, 1970 until June, 1971, he started writing his own numbers and made up to $700 per week for several weeks. The $700 included the $300 he earned for his regular task.

About June or July, 1971, Allan Handler told Acrel Simon that Anthony Politi wanted to see him. Acrel Simon, Allan Handler, Anthony Politi and Philip Politi met in Tarrytown, New York. Allan Handler accused Acrel Simon of having added winning numbers to the policy work. Anthony Politi asked Acrel Simon what had happened. Acrel Simon denied that he had added any numbers. Anthony Politi told Acrel Simon he would hear from him. Acrel Simon was not allowed to work anymore.

About August, 1971, Acrel Simon went to Arthur Frangello and asked him to speak to Anthony Politi. About a week later, Arthur Frangello told Acrel Simon to see Allan Handler. Acrel Simon went to Allan Handler and then Allan Handler, Anthony Politi and Acrel Simon met for breakfast. Acrel Simon asked when he could go back to work. Anthony Politi said he would be in touch.

STIPULATION RE: TESTIMONY OF PATRICIA HYATT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., : 73 Cr. 56

Defendants. :

STIPULATION

It is hereby stipulated and agreed that if PATRICIA HYATT were called on behalf of the United States, she would, after having been sworn, testify as follows:

She is the niece of ROBERT PETERS. Towards the end of June 1971 ROBERT PETERS asked if she wanted to work a couple hours a day running a package back and forth. He told her to meet Phil (Phil Politi) in a designated spot. ROBERT PETERS told her she would receive between $150 and $175 per week. She actually received $175 per week for as long as she worked. Her hours were 3 hours a day 6 days a week.

About a week later she met PHILIP POLITI in Breycrcliff, N. Y. He told her to follow him. They drove to the parking lot of the Grand Union Supermarket, Cornwall, N.Y. They waited in the car. ARTHUR FRANGELLO arrived. PHILIP POLITI introduced ARTHUR FRANGELLO to PATRICIA HYATT. PHILIP POLITI told PATRICIA HYATT this is who she would meet, and who would give her the policy work. ARTHUR FRANGELLO told PHILIP POLITI he wanted PATRICIA HYATT to come to his bar to pick up the work but PHILIP POLITI refused. ARTHUR FRANGELLO handed a package of policy work to PATRICIA HYATT. EDDIE WASHINGTON drove up with ALLAN HANDLER. PHILIP POLITI introduced EDDIE WASHINGTON to PATRICIA HYATT and EDDIE WASHINGTON handed a package of policy work to PATRICIA HYATT. PHILIP POLITI, EDDIE WASHINGTON, ALLAN HANDLER and ARTHUR FRANGELLO talked together for a few minutes outside the hearing range of PATRICIA HYATT. After meeting with the above, PHILIP POLITI took her to meet with HARRY WEIS in Westchester County. PHILIP POLITI told PATRICIA HYATT to hand

Highland Falls, N.Y. told her to make sure she watched carefully for police. She met with ARTHUR FRANGELLO, EDDIE WASHINGTON, and HARRY WEIS between 3:30 and 4:30 6 days a week, performing the identical functions for about 1-1/2 weeks. Each day she gave EDDIE WASHINGTON and ARTHUR FRANGELLO Adding Machine Tapes showing the totals from the previous day.

About mid-July 1971, in the vicinity of Newburgh, N. Y., EDDIE WASHINGTON brought LEONARD HARRISON with him. EDDIE WASHINGTON told PATRICIA HYATT that LEONARD HARRISON would bring EDDIE WASHINGTON's policy work down from now on. She continued picking up from LEONARD HARRISON until about mid-January 1972. Around the same period of time, ARTHUR FRANGELLO had a conversation with PATRICIA HYATT in Newburgh, N. Y. in which he told her to come to the Twilight Bar, Newburgh, N. Y. to pick up the policy work in the future. From then until she was arrested on November 22, 1971 she picked up ARTHUR FRANGELLO's work at the bar, 6 days per week. The procedure that was followed when picking up from ARTHUR FRANGELLO at the bar, was that she would park the car in the alley next to the bar and leave the previous day's adding machine tape under the visor, enter the bar, see ARTHUR FRANGELLO, and wait while ARTHUR FRANGELLO went outside and returned a few minutes later. After ARTHUR FRANGELLO returned she would go outside and the work was under the visor and the adding machine tape was gone. After picking up from ARTHUR FRANGELLO she delivered the tape to LEONARD HARRISON and took the work from him. She would then deliver ARTHUR FRANGELLO and LEONARD HARRISON's work to HARRY WEIS each day. All this took place between about 3:30 and 6:30. During the period of time between June 1971 and Christmas 1971, about once a month ARTHUR FRANGELLO told PATRICIA HYATT on different occasions to tell Phil to have his brother call ARTHUR FRANGELLO, and to tell Phil to have Tony call ARTHUR FRANGELLO. Towards the beginning of the time she started working. PHILIP POLITI told her never to mention Tony's name especially if arrested. About September 1971, ROBERT

she knew nothing about it.

On November 22, 1971 she was arrested by the New York State Police. On the day before she was arrested, HARRY WEIS told her that on the next day he would give some work to her and she should hide all three packages. He'd have someone pick up the work later. On the date she was arrested she picked up ARTHUR FRANGELLO and LEONARD HARRISON's policy work from Newburgh, N. Y. and drove to New York. Harry then drove up, threw a package of policy work into the car and drove past. The State Police then seized all three batches of work from PATRICIA HYATT. Gov. Ex. 3, Gov. Ex. 3 a, Gov. Ex. 3 b, Gov. Ex. 3 c. Gov Ex. 3B was received from ARTHUR FRANGELLO, Gov. Ex. 3C was received from LEONARD HARRISON and Gov. Ex. 3A was received from HARRY WEIS. In about November, 1971 PHILIP POLITI told PATRICIA HYATT if she was ever arrested in Tuckahoe, N. Y. she should ask for a Detective who was a friend of his.

The day after PATRICIA HYATT was arrested, i.e. November 23, 1971, she met MICHAEL CAMPOREALE. Until about the first week in December, 1971 she picked up policy work from ARTHUR FRANGELLO and LEONARD HARRISON in Newburgh, N.Y., and delivered it to MICHAEL CAMPOREALE in the Southern District of New York. (She also delivered the adding machine tapes as before.) In approximately the 1st week of December 1971, ARTHUR FRANGELLO had another man bring his package of policy work to her. PATRICIA HYATT complained to ARTHUR FRANGELLO on several occasions about this other man being late to the meet. PATRICIA HYATT also told ROBERT PETERS about the other man being late and ROBERT PETERS said he would talk to ARTHUR FRANGELLO about it. PATRICIA HYATT followed this procedure of picking up policy work from and delivering adding machine tapes to ARTHUR FRANGELLO's man and LEONARD HARRISON in the vicinity of Newburgh, N.Y. and then delivering the packages to MICHAEL CAMPOREALE, for six days per week, from the 1st week in

December 1971 until mid-January, 1972.

About the 2nd week in May 1972, ROBERT PETERS called and told PATRICIA HYATT to meet MICHAEL CAMPOREALE at Bear Mountain, N.Y. She went to Bear Mountain and MICHAEL CAMPOREALE introduced her to DAVID WEYGANT and EILEEN MORAN. MICHAEL CAMPOREALE told PATRICIA HYATT she would be picking up from EILEEN MORAN from now on. EILEEN MORAN gave a package to PATRICIA HYATT. For the next few days EILEEN MORAN and PATRICIA HYATT met at Bear Mountain and EILEEN MORAN handed a package of policy work to PATRICIA HYATT. Then they changed the meeting place from Bear Mountain to various locations, around Peekskill and Nyack, N.Y. She continued picking up the policy work from EILEEN MORAN from about the beginning of the second week in May, 1972 until the beginning of the second week in June, 1972. Towards the third week of May 1972 PATRICIA HYATT told EILEEN MORAN she was being followed. The next day LOUIS VISCONTI drove behind EILEEN MORAN. LOUIS VISCONTI carried the work with him and handed it to PATRICIA HYATT. LOUIS VISCONTI said EILEEN MORAN had not been followed. However, PATRICIA HYATT pointed out a gold Federal Bureau of Investigation car on top of the hill. She picked packages up from EILEEN MORAN between 3:30 and 5:30 each day, six days a week.

For the first week she started picking up from EILEEN MORAN she delivered the package received from EILEEN MORAN to GERALD POLITI. After the first week she hid the package. GERALD POLITI told her where to hide it. Towards the end of May, 1972 PATRICIA HYATT had a conversation with PHILIP POLITI in the Boat Club, New Rochelle, N.Y. He said he had found place under a log. He took her to the place located in the vicinity of City Island, N. Y. He told her this was the ultimate spot, that the work could be put there for years and no one would find it. He told her to put the work in plastic bags. For the next few days she placed the work under the log. Then, she was called by PHILIP POLITI on the phone. He told her to meet him. She did and he told her that someone

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had put the log over the work and that he had seen people with cameras taking pictures of him. PHILIP POLITI told her EILEEN MORAN was delivering the work late, there were too many hits, and that she better get it in on time, because he was paying her salary. After that she again delivered the policy work to GERALD POLITI until the beginning of the first week in June 1972. She did this 6 days per week. She was arrested June 13, 1972 by the Federal Bureau of Investigation. About a week before she was arrested she had a conversation on a side street in Westchester County with GERALD POLITI. She handed the work to GERALD POLITI. GERALD POLITI told her he was upset with her because the Federal Bureau of Investigation was following her.

In October 1972 she was subpoenaed, granted immunity and testified before the Grand Jury. After she was subpoenaed but before she testified at the Grand Jury, ROBERT PETERS talked to her in Yonkers, N.Y. ROBERT PETERS told her to tell the Grand Jury that she knew all the people she had met in connection with the operation, however to make up stories as to how she knew them. He told her not to say that the people were involved in gambling. He further stated that she should say she was going out with Art Frangello. He said since she had immunity she wouldn't get caught if she made up the stories.

STIPULATION RE: TESTIMONY OF RAYMOND SHAW AND ROBERT PARKHURST

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., : 73 Cr 56

Defendants. :

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STIPULATION

It is hereby stipulated and agreed that if RAYMOND SHAW, and ROBERT PARKHURST were called on behalf of the United States, they would, after having been sworn, testify as follows:

On January 26, 1971, ANTHONY POLITI, PHILIP POLITI, MICHAEL ROMAN and 2 others were arrested at the Bobbin Inn Motel, Rockland Lake, New York. They were arrested at a policy bank containing voluminous policy plays, records, adding machines, and policy paraphernalia.

Government Exhibits 1A-1D

See photos - Government Exhibits 1E

STIPULATION RE: TESTIMONY OF RAY SHAW

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- : 73 Cr. 56

ANTHONY POLITI, et al., :

Defendants. :

STIPULATION

It is hereby stipulated and agreed that if Ray Shaw of the New York State Police were called on behalf of the United States, he would after having been duly sworn, testify as follows:

1. His nickname is Bub.

2. Govt. Ex. 1A seized from the Bobbin Inn contains the following entry on a page marked "Cash Out" "BuB 1000".

3. On cross examination he would testify he was never called Bub in the tape recorded conversation of October 28, 1970.

4. On April 3, 1973 Ray Shaw testified at the suppression hearing in this case at p. 215 as follows: after having testified that ANTHONY POLITI, MICHAEL ROMAN and PHILIP POLITI were at the Bobbin Inn:

Q Did you know these people?

A Michael Roman I did, and from pictures I had seen ot the other people, I knew them also.

5. On redirect examination Ray Shaw would testify that the reason why he did not testify about meeting ANTHONY POLITI on October 28, 1970 was that in April 1973 his office still intended to engage in additional meetings with ANTHONY POLITI such as had occurred in October, 1970.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

-v- : 73 Cr. 56

ANTHONY POLITI, et al., :

Defendants. :

STIPULATION

It is hereby stipulated and agreed that if EILEEN MORAN were called on behalf of the United States, she would, after having been sworn, testify as follows:

She is 21 years old and lives in New Windsor, New York. In about the second week of May, 1972, she had a conversation with LOUIS VISCONTI at her house. LOUIS VISCONTI offered her $125 a week for a three hour day, 6 days a week. He told her, she would have nothing to worry about. The next day she went to Bear Mountain, New York with DAVID WEYGANT and met MICHAEL CAMPOREALE and PATRICIA HYATT. She had received a bag from DAVID WEYGANT which she handed to PATRICIA HYATT and PATRICIA HYATT would tell her everything. PATRICIA HYATT and EILEEN MORAN agreed to meet the next day.

The next day LOUIS VISCONTI introduced EILEEN MORAN to LEONARD HARRISON and told LEONARD HARRISON this is the girl you will be giving the package to. She met DAVID WEYGANT in New Windsor, New York the same day and got a package from him. She took both packages and gave them to PATRICIA HYATT. She did this from about 3:30 to 6:30 for about 4 weeks 5 or 6 days a week. She was paid $125 a week by LOUIS VISCONTI.

Towards the third week in May, 1972 LOUIS VISCONTI took her to meet MICHAEL ROMAN early in the morning. LOUIS VISCONTI introduced MICHAEL ROMAN as the big boss. LOUIS VISCONTI told her to meet MICHAEL ROMAN the next day at 9 A.M., and pick up a package. The next morning at about 9:00 she

picked up a package from MICHAEL ROMAN and returned it to LOUIS VISCONTI as per LOUIS VISCONTI's instructions. She continued doing this for about 5 days during a period of a week and a half. On 3 of the occasions that she delivered the package she had received from MICHAEL ROMAN, LOUIS VISCONTI opened the package and it was full of money wrapped in small packages. Each small package had notations on it. On the first occasion that he opened the package LOUIS VISCONTI told her, these are the pays. LOUIS VISCONTI pointed out to her that this is what she was getting from MICHAEL ROMAN, money. On one occasion LOUIS VISCONTI paid her from the package she had picked up from MICHAEL ROMAN. A few days after she met MICHAEL ROMAN, LOUIS VISCONTI gave her the name of an attorney and told her if anything happened to call the attorney. He also told her if she was followed (policemen) to throw the package she was carrying out the window, but remember where she had thrown it so she could come back and pick it up later. LOUIS VISCONTI told her to stop picking up from MICHAEL ROMAN so she did.

Shortly before Memorial day weekend, 1972, EILEEN MORAN told LOUIS VISCONTI that PATRICIA HYATT had told EILEEN MORAN that she was being followed. The next day LOUIS VISCONTI followed EILEEN MORAN to the meet spot. When they arrived at the meet spot LOUIS VISCONTI said to PATRICIA HYATT that EILEEN MORAN was not followed. LOUIS VISCONTI handed that day's package to PATRICIA HYATT. PATRICIA HYATT pointed to a car and said it was the Federal Bureau of Investigation.

STIPULATION RE: TESTIMONY OF RAYMOND SHAW

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v - : 73 Cr. 56

ANTHONY POLITI, ET AL, :

Defendants. :

STIPULATION

It is hereby stipulated and agreed that if RAYMOND SHAW were called on behalf of the United States, he would, after having been sworn, testify as follows:

RAYMOND SHAW is a State Policeman. On October 26, 1970, Raymond Shaw met with Anthony Politi in Rockland County, New York. Anthony Politi told Raymond Shaw he needed help in Rockland County, with gambling and was told that Raymond Shaw was the man to see. Anthony Politi told Raymond Shaw he would be well taken care of if any information about Anthony Politi's gambling operation in Rockland County would be given to him. Anthony Politi told him he would give to Raymond Shaw information concerning other gambling operations in Rockland County. Anthony Politi also said to protect Raymond Shaw he would set up some of his own runners so that arrests could be made to protect Raymond Shaw.

On October 28, 1970, he again met with Anthony Politi at the Villa Pietro Restaurant, Briarcliff Manor, Westchester County, New York. The meeting took place at 7:30. He wore a recording device for this conversation. Anthony Politi told Raymond Shaw about several policy operations being conducted in Westchester aside from his own. He said he was the top man in his organization for Rockland and Westchester Counties. They discussed two other State Policemen. Anthony Politi said let's talk business, what kind of numbers did you have in mind? Raymond Shaw asked what the other State Policemen had gotten for supplying information to the

operation. Anthony Politi, with his fingers and by writing on the table, indicated that they had gotten $100 and $200 respectively.

Anthony Politi handed a piece of paper to Raymond Shaw. The paper was typewritten and said "How much do you think its worth per month?_____." Raymond Shaw said what do you have in mind.. He took the piece of paper and wrote $1,000. Raymond Shaw shook his head affirmatively. He said he was not in organized crime and had nothing to do with narcotics or prostitution and nothing interstate. He said he was just a bookmaker and needed someone to help him in Rockland County as he had just taken over the operation 12 or 13 weeks ago. He said he had no other policeman involved with him in Rockland County, and that's why he needed help.

Anthony Politi told Raymond Shaw he was the boss of Rockland County. He said he was making 12% of the total money taken in by the operation. Anthony Politi told Raymond Shaw they should meet once a week. They set a date for November 3, 1970, at the Plaza Diner, Nanuet, New York.

During this conversation, Anthony Politi reached inside his pocket and gave Raymond Shaw $1,000.00.
GOVERNMENT EXHIBIT 26.

On November 8, 1970, Raymond Shaw was wearing a recording device for this conversation. Michael Roman asked if he was working on anything now and Raymond Shaw replied no. Michael Roman discussed Harry Crayton's numbers operation and how it was hurting him. Michael Roman suggested that they meet once a week and set the next meeting for November 12, 1970, at the Colonial Coffee Shop, Blauvelt, New York, which is run by Michael Roman's sister. At that meeting, Michael Roman would give Raymond Shaw a phone number to call if Raymond Shaw had anything for Michael Roman. Michael Roman mentioned that there was an organization connected with the gambling operation.

On November 16, 1970, Michael Roman met Raymond Shaw at Sears Coffee Shop, Route 59, Nanuet, New York, at 12:30 pm. They discussed the Crayton operation and Michael Roman agreed to provide information concerning Crayton to Raymond Shaw that week. Michael Roman gave Raymond Shaw a telephone number which Raymond Shaw was to call and ask for Betty and give the name if he was going to make a hit on Anthony Politi's operation. Anthony Politi was discussed and Michael Roman stated that Tony would call Raymond Shaw that week at his home.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- : 73CR56

ANTHONY POLITI, et al., :

Defendants. :

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STIPULATION FOR THE PURPOSE
OF DOUBLE JEOPARDY CONTENTION

It is hereby stipulated and agreed by and between the parties that:

1. The actual evidence presented in 71 Cr. 857 related solely to gambling in Westchester County, N. Y.

2. There is no evidence that was presented in 73 Cr. 56 that is identical to the evidence presented in 71 Cr. 857.

3. The following defendants are common to both Indictments:

Count 1 Conspiracy
ANTHONY POLITI
HARRY WEIS
PHILIP POLITI

Count 2 18 USC 1955
ANTHONY POLITI
HARRY WEIS
PHILIP POLITI

4. PHILIP POLITI was neither tried nor acquitted in 71 Cr. 857. However a Nolle Prosequi was entered with respect to his case.

5. 71 Cr. 857 listed no co-conspirators that were not indicted. In a separate Bill of Particulars the Government in 71 Cr. 857 named as "co-conspirators and accomplices" the following individuals who are named in the following manner in 73 Cr. 56:

a. ALPHONSE CUZZO Defendant

b. THOMAS COLLINS Co-conspirator

c. MICHAEL ROMAN Defendant

d. ROBERT PETERS Defendant

6. PASQUALE MASIELLI was named as a defendant in 71 Cr. 857 and is named as a co-conspirator in 73 Cr. 56.

7. Attached hereto and incorporated herein is the list of co-conspirators and accomplices that the Government alleged to be involved in 71 Cr. 857 - Exhibit A.

8. Attached hereto and incorporated herein is an accurate copy of Indictment No. 71 Cr. 857. Exhibit B.

9. All defendants with the exception of PHILIP POLITI were acquitted in 71 Cr. 857.

10. At the trial of 71 Cr. 857 there was some testimony relating to a meeting between ANTHONY POLITI and a witness N. Brown in September 1970. The relevant portion of that testimony is attached and incorporated herein as Exhibit C.

11. At trial 71 Cr. 857 there were some recorded wagers seized from Arthur Dilworth on a writing pad which dated back to 1970. The relevant portion of that testimony is attached hereto and incorporated herein as Exhibit D. pp. 993-994.

12. If called to testify Robert Parkhurst would testify that the observations set forth in the affidavit in support of the Bobbin Inn search, are true and correct and constituted part of the probable cause to search. the Bobbin Inn. Said affidavit is attached hereto as Exhibit E.

ANTHONY POLITI
Defendant

VINCENT LAMA
Defense Attorney

HARRY WEIS
Defendant,

IRVING ANOLIK
Defense Attorney

JOEL M. FRIEDMAN
Special Attorney
U. S. Department of Justice

EXHIBIT A - LIST OF CO-CONSPIRATORS ANNEXED TO FOREGOING STIPULATION

ITEM I

ROBERT ARCHER

FRED J. BEARDSLEY

MC DONALD BLACKETT
131 State Street
Ossining, New York

NORMAN BROWN
40 Morrow Avenue
Scarsdale, New York

WILLIAM J. CARLUCCI
2899 Mead
Yorktown Heights, New York

THOMAS CARR
43 Old Albany Post Road
Ossining, New York

SAM CASTALDI
2445 Luting Avenue
Bronx, New York

NATHANIEL CHAMBERLAIN
57 Hall Avenue
White Plains, New York

THOMAS COLLINS

ALPHONSE CUZZO
63 Van Cortlandt Street
Yonkers, New York

Edgar Duclos
81 Water Street
Ossining, New York

JOHN J. DWYER
Old Rt. 9
Fort Montgomery, New York

LOUIS FERRACANE

DALLAS HOWELL
2242 Spring Street
Ossining, New York

WILLIE MORGAN
11 Roosevelt Street
Greenburgh New York

JOSEPH MURPHY
114 Nelson Avenue
Peekskill, New York

ROBERT PETERS
188 Hillside Avenue
Greenburgh, New York

MIKE ROMAN

WILLIAM SELLERS
203 Endicott Avenue
Elmsford, New York

CHRISTOPHER THOMPSON
1408 Main Street
Peekskill, New York

PAUL WILLETT
2 Havell Street
Ossining, New York

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, :
PHILIP POLITI,
HARRY WEIS, :
PASQUALE MASELLI,
LEARTIS MORRIS, :
FRANK BRACEY,
ARTHUR DILWORTH, and :
JOHN ABRAMS
Defendants :

INDICTMENT

71 Cr. 857

COUNT ONE

The Grand Jury charges:

1. From on or about the 16th day of March, 1971, and continuously thereafter, up to and including the 24th day of May, 1971, in the Southern District of New York and elsewhere, ANTHONY POLITI, PHILIP POLITI, HARRY WEIS, PASQUALE MASIELLI, LEARTIS MORRIS, FRANK BRACEY, ARTHUR DILWORTH and JOHN ABRAMS, the defendants herein, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree, together and with each other, and with diverse other persons to the Grand Jury as yet unknown, to commit offenses against the United States, to wit, to violate Title 18, United States Code, Sections 1955 and 2.

2. It was part of said conspiracy that said defendants would unlawfully, wilfully and knowingly conduct, finance, manage, supervise, direct and own a part of an illegal gambling business, to wit, a policy gambling business, said illegal gambling business (a) being a violation of the laws of the State of New York, to wit, Penal Law Sections 225.10 and 225.20, (b) involving five and more persons who conduct, finance, manage, supervise, direct and own a part of said illegal gambling business, and (c) being and remaining

in substantially continuous operation for a period in excess of thirty days and having a gross revenue of two thousand dollars ($2,000.00) in any single day.

3. Among the means whereby said defendants did carry out the said conspiracy were the following:

(a) JOHN ABRAMS, ARTHUR DILWORTH and LEARTIS MORRIS accepted policy gambling bets.

(b) FRANK BRACEY and HARRY WEIS collected policy gambling bets.

(c) ANTHONY POLITI, PHILIP POLITI and PASQUALE MASELLI received the collected policy gambling bets.

(d) ANTHONY POLITI rented various automobiles to be used to transport the policy betting slips from one defendant to another.

OVERT ACTS

In furtherance of said conspiracy and to effect the objects thereof, the defendants, in the Southern District of New York, committed and caused to be committed the following:

1. On or about the 22nd day of March, 1971, ARTHUR DILWORTH and LEARTIS MORRIS met at Zerbo's Restaurant, 122 Main Street, Ossining, New York.

2. On or about the 24th day of March, 1971, FRANK BRACEY, ARTHUR DILWORTH and HARRY WEIS met in the Ardsley Shopping Center Parking Lot in Ardsley, New York.

3. On or about the 6th day of April, 1971, HARRY WEIS and JOHN ABRAMS met at a parking lot on Route 9A, Elmsford, New York.

4. On or about the 24th day of April, 1971, ANTHONY POLITI, PHILIP POLITI and PASQUALE MASELLI met near the intersection of Buckout and Main Streets, Irvington, New York.

5. On or about the 1st day of May, 1971, HARRY WEIS, ANTHONY POLITI and PASQUALE MASELLI met in the parking lot of the Howard Johnson Restaurant, Route 9, Tarrytown, New York.

(Title 18, United States Code, Section 371)

COUNT TWO

The Grand Jury further charges:

From on or about the 16th day of March, 1971, and substantially continuously thereafter, up to and including the 24th day of May, 1971, in the Southern District of New York, and elsewhere, the defendants, ANTHONY POLITI, PHILIP POLITI, HARRY WEIS, PASQUALE MASELLI, LEARTIS MORRIS, FRANK BRACEY, ARTHUR DILWORTH and JOHN ABRAMS, did unlawfully, wilfully and knowingly conduct, finance, manage, supervise, direct and own a part of an illegal gambling business, to wit, a policy gambling business, being in violation of the laws of the State of New York, Penal Law Sections 225.10 and 225.20 and involving five and more persons who conduct, finance, manage, direct and own a part of said illegal gambling business and remaining in substantially continuous operation for a period in excess of thirty days and having a gross revenue of two thousand dollars ($2,000.00) in any single day.

(Title 18, United States Code, Sections 1955 and 2)

WHITNEY NORTH SEYMOUR, JR.
United States Attorney for the
Southern District of New York
Attorney for the United States
of America

FOREMAN

STIPULATION RE TESTIMONY OF ROY HYATT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- : 73CR56

ANTHONY POLITI, et al., :

Defendants., :

STIPULATION

It is hereby stipulated and agreed that if ROY HYATT were called on behalf of the United States, he would, after having been sworn, testify as follows:

He is the husband of Patricia Hyatt. Shortly before Christmas 1971, he met Leonard Harrison and Arthur Frangello in Newburgh, New York. On 2 or 3 occasions (prior to Christmas 1971) he substituted for his wife and picked packages of policy work up from and gave adding machine tapes to Leonard Harrison and Arthur Frangello. About mid-January, 1972, he started on a full time basis, 6 days per week at $175 per week. He worked from about 3:30 to 7 six days per week. He picked up packages of policy work from a man who had been introduced as Arthur Frangello's man and from Leonard Harrison in Newburgh, New York. For the first 2 or 3 weeks he brought the two packages down to Westchester and Rockland County, New York and delivered them to Philip Politi. Philip Politi told him where they should meet for each successive day. At least once a week Philip Politi told him to make sure that he was checking his mirrors and not being followed. After the first two or 3 weeks, from the beginning of February, 1972, until end of March, 1972, he delivered the packages of policy work to Michael Camporeole rather than Philip Politi. He met towards the end of March, 1972, with Robert Peters, Philip Politi, Gerald Potiti and Michael Camporeole on a Sunday night at a diner in Westchester

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County. Robert Peters and Philip Politi reminded the others that the work must be in on time. Robert Peters then passed out policy adding machines tapes.

Roy Hyatt was subpoenad and granted immunity in October, 1972. After he was subpoenad but before he testified, Robert Peters talked to him in Greenburgh, New York. Robert Peters told him to say he knew the people up in Newburgh and to make up stories about how he knew them. He told him not to say anything about gambling and to tell the Grand Jury he suspected his wife of running around and that was why he was up in Newburgh, New York.

ANTHONY POLITI
Defendant

VINCENT LANNA, ESQ.
Defense Counsel

PHILIP POLITI
Defendant

GERALD POLITI
Defendant

HARRY WEIS
Defendant

IRVING ANOLIK, ESQ.
Defense Counsel

EDDIE WASHINGTON
Defendant

LEONARD HARRISON
Defendant

LAWRENCE JOHNSON
Defendant

DAVID BLACKSTONE, ESQ.
Defense Counsel

ARTHUR FRANGELLO
Defendant

LOUIS VISCONTI
Defendant

PATRICK M. WALL, ESQ.
Defense Counsel

ROBERT PETERS
Defendant

EDWARD S. PANZER, ESQ.
Defense Counsel

MICHAEL ROMAN
Defendant

HERALD PRICE FAHRINGER, ESQ.
Defense Counsel

ANTHONY CUZZO
Defendant

GEORGE J. BELLANTONI, ESQ.
Defense Counsel

JOEL M. FRIEDMAN
Special Attorney
U. S. Department of Justice

STIPULATION RE: TESTIMONY OF BOBBY RATTIFFE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., : 73CR56

Defendants. :

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STIPULATION

It is hereby stipulated and agreed that if BOBBY RATTIFFE were called on behalf of the United States, he would, after having been sworn, testify as follows:

He is a Special Agent of the Federal Bureau of Investigation. Latent Fingerprint Section of Federal Bureau of Investigation Laboratory, Washington, D. C. would testify that fingerprints of the following people were in his opinion found on items submitted to the Lab. for examination as follows:

PERSON	LAB #	LOCATION WHERE SEIZED
1. Anthony Politi	Q38	Bobbin Inn (Policy) (ribbon)
2. Michael Roman (2)	Q38-Bobbin Inn	(record book)
(3)	Q1-5-77 Broadway Park Ridge, N.J.	(policy records)
3. Gerald Politi (1)	Q33	Robert Peters pocket (Policy Tapes)
4. Leonard Harrison (4)	Q20-25	15 Eastview, Yonkers (Policy paraphernalia)
5. Lawrence Johnson (1)	Q8	94 Garden St. (Policy gambling material)
(3)	Q20-25	15 Eastview (gambling material)
(11)	Q	23 Gidney-Newark (gambling material)

ANTHONY POLITI
Defendant

VINCENT LANNA, ESQ.
Defense Counsel

PHILIP POLITI
Defendant

GERALD POLITI
Defendant

HARRY WEIS
Defendant

IRVING ANOLIK, ESQ.
Defense Counsel

EDDIE WASHINGTON
Defendant

LEONARD LARRISON
Defendant

LAWRENCE JOHNSON
Defendant

DAVID BLACKSTONE, ESQ.
Defense Counsel

ARTHUR FRANGELLO
Defendant

LOUIS VISCONTI
Defendant

PATRICK M. WALL, ESQ.
Defense Counsel

ROBERT PETERS
Defendant

EDWARD S. PANZER, ESQ.
Defense Counsel

MICHAEL ROMAN
Defendant

HERALD PRICE FAHRINGER, ESQ.
Defense Counsel

ANTHONY CUZZO
Defendant

GEORGE J. BELLANTONI, ESQ.
Defense Counsel

JOEL M. FRIEDMAN
Special Attorney
U. S. Department of Justice

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- : 73 CR 56

ANTHONY POLITI, et al., :

Defendants. :

----------x

STIPULATION

It is hereby stipulated and agreed tha if ROBERT HLAWATSCH were called on behalf of the United States, he would, after having been sworn, testify as follows:

He resides at, 15 Eastview Avenue, Yonkers, New York. Donna Cuzzo wife of Alphouse Cuzzo is his step daughter and also resides there. The basement at 15 Eastview, Yonkers, New York was jointly shared by Al Cuzzo and himself. The completely enclosed room in which all policy paraphanalia was found within the basement, was built and solely used by A.CUZZO. It had a lock on the door.

STIPULATION RE: TESTIMONY OF F.B.I. AGENTS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., : 73 Cr. 56

Defendants. :

STIPULATION

It is hereby stipulated that if the following Agents of the Federal Bureau of Investigation were called on behalf of the United States they would, after having been sworn, testify as follows based upon their personal observations and searches:

Bob C. Reutter
Allen Lance Emory
Stephen S. Barnett
Carl W. Amaditz
Jeffrey W. McMurtrey
Michael B. Growney
Lowell W. Barton
Joseph B. McAleer

On Tuesday, February 22 and Wednesday, February 23, 1972, MICHAEL CAMPOREALE and LOUIS VISCONTI met in Beacon, N.Y. at approximately 5 p.m. and were photographed. Govt. Ex. 16+17.

On Tuesday, March 14, 1972, LOUIS VISCONTI was observed entering ARTHUR FRANGELLO's mother's house in Newburgh at approximately 11:23 a.m.

On Tuesday, March 21, 1972, ANTHONY POLITI, ROBERT PETERS, ALLAN HANDLER, and ARTHUR FRANGELLO met in Vails Gate, N.Y. at 5:00 p.m. for approximately 15 minutes and scenes of this meeting were photographed. Govt. Exh. 19.

On Thursday, March 30, 1972, PATRICIA HYATT met MICHAEL CAMPOREALE in Tuckahoe, N. Y. at 6:08 p.m. for approximately 6 minutes.

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On Monday, April 17, 1972, Philip Politi met Michael Camporeale in Eastchester, New York, in the rear of a shopping center at 6:36 pm. Michael Roman was observed at 9:06 pm parked at Philip Polit's home in Mt. Vernon, New York. Philip Politi returned hom at 9:23 pm wherein both men entered Philip Politi's home.

On Tuesday, April 18, 1972, Philip Politi and Michael Camporeale met in a wooded area of Eastchester, New York at 6:45 pm.

On Wednesday, April 19, 1972, at 4:58 pm, Michael Roman and Allan Handler were seated in Roman's car talking for approximately 15 minutes. The car was parked in front of Arthur Frangello's bar in Newburgh.

On Thursday, April 20, 1972, at 4:40 pm, Louis Visconti parked his car on Washington Street,Newburgh; Leonard Harrison parked his car in front of Louis Visconti, they talked together briefly; Leonard Harrison left, went into an apartment, then returned, and entered Louis Visconti's car for one minute before returning to his car. Leonard Harrison then drove to and entered 199 South Street, Newburgh, leaving about seven minutes later wherein he returned and entered Louis Visconti's car. Eddie Washington's car was parked in front of 199 South Street while Leonard Harrison was there. While Leonard Harrison was at 199 South Street, before he returned to Louis Visconti's car, Arthur Frangello entered Louis Visconti's car for 5 minutes. Leonard Harrison returned and met Louis Visconti again. Louis Visconti then drove to Beacon where he met with Harry Weis and Michael Camporeale at 5:45 pm. Michael Camporeale parked his car in a wooded area in Eastchester, New York at 7:13 pm. Philip Politi was observed in the same area at 7:18 pm. Philip Politi and Robert Peters met for 15 minutes in Yonkers at 9:05 pm.

On Tuesday, April 25, 1972 at 5:23 pm, Louis Visconti entered Lawrence Johnson's residence at 94 Garden Street, Poughkeepsie; Louis Visconti drove to Newburgh and met with Eddie Washington, Louis Visconti parked his car next to Michael Roman's car and entered a restaurant in New Windsor, N. Y. at 6:40 pm.

On Thursday, April 27, 1972, at 5:09 pm, Michael Camporeale and Harry Weis met in Fishkill, New York. Michael Camporeale drove to Yonkers, New York where he placed a package in a bush and covered it with debris at the rear of Great Eastern Store, at 6:13 pm. This package was retrieved, examined by Agents, found to contain policy bets, and then returned to original spot. Gerald Politi picked up package at 6:37, drove to Philip Politi's house where they talked briefly; at approximately 9:15 pm, Philip Politi, Anthony Politi and Robert Peters met in parking lot in Greenburgh, New York. After meeting, Philip Politi crossed the street and met Harry Weis.

On Monday, May 1, 1972, at approximately 4:50 pm, Harry Weis met Lawrence Johnson in Poughkeepsie, New York for one minute. Michael Camporeale and Harry Weis observed in separate cars in Westchester County approximately 35 minutes later with Harry Weis observed making numerous gestures to Michael Camporeale pointing to the Federal Bureau of Investigation vehicle and agent driver. Michael Camporeale made a left turn across traffic at next intersection. At approximately 8:30 pm, Anthony Politi, Philip Politi, Harry Weis, and Robert Peters met for 40 minutes in Yonkers, New York. Harry Weis left and Anthony Politi,Philip Politi, and Robert Peters continued discussion for another 15 minutes.

On Friday, May 5, 1972, Lawrence Johnson came out of 94 Garden Street, Poughkeepsie and handed package to Louis Visconti, at 4:21 pm. Louis Visconti drove to Newburgh and met Leonard Harrison at 5:00 pm. Louis Visconti handed package of small manilla envelopes to Louis Visconti. Louis Visconti met Harry Weis in Central Valley, New York at 5:30 pm.

On Saturday, May 6, 1972, at 4:32 pm, Lawrence Johnson handed package to Louis Visconti in front of 94 Garden Street, Poughkeepsie. Eddie Washington handed something to Louis Visconti in Newburgh at 5:07 pm. Louis Visconti then met Harry Weis in Central Valley, New York.

On Monday, May 8, 1972, Louis Visconti and Leonard Harrison met at Eddie Washington's house in Newburh at approximately 4:50 pm. Louis Visconti and David Weygant then met Michael Camporeale in

On Wednesday, May 17 and Thursday, May 18, 1972, Michael ROMAN met EILEEN MORAN at approximately 9 a.m. in Nanuet, N.Y. for approximately 1 minute.

On Friday, May 19, 1972, MICHAEL ROMAN met LOUIS VISCONTI at 9 a.m. in Nanuet, N. Y. for approximately 15 minutes. At approximately 4:45 p.m. LOUIS VISCONTI and LEONARD HARRISON met EILEEN MORAN in Newburgh; LOUIS VISCONTI met MICHAEL ROMAN in New Windsor at approximately 6:05 p.m. for 20 minutes.

On Monday, May 22, 1972, LOUIS VISCONTI placed package in MICHAEL ROMAN's car in Highland Falls, N.Y. at 6:24 p.m. Approximately 2 hours later, MICHAEL ROMAN and ANTHONY POLITI talked in parking lot next to MICHAEL ROMAN's car, MICHAEL ROMAN then met LOUIS VISCONTI in New Windsor for 1 hour and 20 minutes.

On Wednesday, May 24, 1972, LOUIS VISCONTI, EILEEN MORAN and DAVID WEYGANT met in Vails Gate, N.Y. At 5:30 p.m. MICHAEL ROMAN made telephone call and 6 minutes later LOUIS VISCONTI entered MICHAEL ROMAN's car carrying a paper bag and they talked for 10 minutes. LOUIS VISCONTI left without the bag. At 11:26 p.m. MICHAEL ROMAN left his home and drove to telephone booth in Yonkers, N.Y., stayed only 1 minute and then drove to the residence at 77 Broadway, Park Ridge, New Jersey where he stayed for almost 2 hours.

On Saturday, May 27, 1972, MICHAEL ROMAN entered 77 Broadway, Park Ridge, N. J. at 12:38 a.m. On Sunday, May 23, 1972 MICHAEL ROMAN arrived at same location at 1:42 a.m. and on Thursday, June 1, 1972 MICHAEL ROMAN arrived at 1:20 a.m. leaving at 4:04 a.m.

On Tuesday, May 30, 1972, EILEEN MORAN met LEONARD HARRISON, EILEEN MORAN met DAVID WEYGANT and DAVID WEYGANT passed a package to EILEEN MORAN. See Govt. Exh. 20. EILEEN MORAN met PATRICIA HYATT in Nyack, N.Y. PATRICIA HYATT drove to deserted area of Pelham Bay, Bronx. Agents found and photographed package of policy work under a log. See Govt. Exh. 21. PHILIP POLITI and GERALD POLITI observed

On Friday, June 2, 1972, at 2:15 am, Michael Roman and Jean Bujese arrested at premises at 77 Broadway, Park Ridge, N.J., searched. Policy slips, records, adding machines, and gambling materials were spread all around the area in which Roman and Bujese were located. See Govt Exhibits 6C. 75a

On Tuesday, June 6, 1972, Eileen Moran met Patricia Hyatt in Nyack, N. Y. Patricia Hyatt then met Gerald Politi in Larchmont, New York.

On Wednesday, June 7, 1972, Arthur Frangello and Leonard Harrison entered the same bar in Newburgh. Leonard Harrison, Louis Visconti, Eileen Moran and David Weygant met in New Windsor. Eileen Moran then met Patricia Hyatt in Nyack, New York.

On June 8, 1972, Arthur Frangello entered same bar in Newburgh and left; Leonard Harrison left same bar 4 minutes later. Leonard Harrison and Eddie Washington met on William Street after Leonard Harrison was earlier observed at 199 South Street. Eileen Moran, David Weygant and Louis Visconti met in New Windsor.

On Friday, June 9, 1972, Arthur Frangello and Leonard Harrison met in same bar in Newburgh; Leonard Harrison then met Louis Visconti and Eileen Moran in Newburgh.

On Wednesday, June 14, 1972, the following arrests and searches were conducted:

94 Garden St., Poughkeepsie; Govt. Exh. 10B, 10C

199 South St., Newburgh; Govt. Exh. 9A, 9D
(Both Leonard Harrison and Eddie Washington were present inside 199 South St. at the time of the search.)

Art Frangello, Govt. Exh. 7

Eddie Washington and car; Govt. Exh. 9B, 9D

Leonard Harrison and car; Govt. Exh. 9C, 9D

Louis Visconti and car; Govt. Exh. 8A, 8B

Lawrence Johnson; Govt. Exh. 10A 10C.

On Wednesday, July 19, 1972, at 9:15 pm, Harry Weis met Robert Peters in Greenburgh, New York.

On Thursday, July 27, 1972, HARRY WEIS and MICHAEL CAMPOREALE met in Bronx. HARRY WEIS later met PHILIP POLITI at end of City Island, Bronx.

On Tuesday, August 8, 1972, LEONARD HARRISON tossed package into BEAMAN BOWMAN's car in Newburgh at 4:37 p.m. BEAMAN BOWMAN drove to Tarrytown, N.Y. where he met and gave ALPHONSE CUZZO a package.

On Tuesday, August 22, 1972, ALPHONSE CUZZO met BEAMAN BOWMAN in Elmsford, N.Y. at 5:47 p.m. ALPHONSE CUZZO placed envelopes under shelf in electrical connection box of public telephone booth in Yonkers, N.Y. at 8:35 p.m. Agents examined booth and found the 5 envelopes, MICHAEL ROMAN removed envelopes at 10:03 p.m.

On Wednesday, August 23, 1972, ALPHONSE CUZZO placed envelopes in same location in same telephone booth as above at 8:35 p.m. MICHAEL ROMAN arrived at 10:01 p.m. and entered adjacent booth as other booth was occupied where he waited impatiently for 20 minutes for other person to leave. MICHAEL ROMAN then entered the same booth as ALPHONSE CUZZO, removed the envelopes placing them in his left front pants pocket, adjusted the connection box and left.

On Thursday, August 24, 1972, ALPHONSE CUZZO entered 15 Eastview, Yonkers at 6:07 p.m., ALPHONSE CUZZO entered above telephone booth at 8:45 p.m. and placed envelopes in same location. MICHAEL ROMAN retrieved envelopes at 10:40 p.m.

On Friday, August 25, 1972,ALPHONSE CUZZO and MICHAEL ROMAN met near above telephone booths. On Saturday, August 26, 1972, MICHAEL ROMAN entered same telephone booth at 10:17 p.m.

On Monday, August 28, 1972, GERALD POLITI entered booth adjacent to one described above and placed envelope in connection box at 8:42 p.m.

On Tuesday, August 29, 1972, GERALD POLITI entered above booth and placed envelope beneath shelf at 8:35 p.m. Agent examined booth and located envelope and examined it at

8:55 p.m. ROBERT PETERS, ANTHONY POLITI, and MICHAEL ROMAN arrived at 9:31 p.m. and ROBERT PETERS retrieved envelope. See Govt. Exh. 13A. At 8:57 p.m. the same night, ALPHONSE CUZZO entered another public telephone booth on Lawrence St., Yonkers. After ALPHONSE CUZZO left, Federal Bureau of Investigation Agent examined this booth and located 4 white envelopes beneath the shelf; following arrest of ANTHONY POLITI, ROBERT PETERS and MICHAEL ROMAN, these envelopes, left by Alphonse Cuzzo, were retrieved. See Govt. Exh. 12.

The following searches were conducted Tuesday, August 29, 1972:

15 Eastview Ave., Yonkers, See Govt. Exh. 11A-11G
All items seized from 15 Eastview were seized from a basement area used solely by ALPHONSE CUZZO.

ANTHONY POLITI	See Govt. Exh. 13D
MICHAEL ROMAN	See Govt. Exh. 13C
ROBERT PETERS	" Govt. Exh. 13A
ROBERT PETERS car	" Govt. Exh. 13A-13D

The following searches were conducted August 30, 1972:

23 Gidney, Newburgh	See Govt. Exh. 14
Dorothy Plair	See Govt. Exh. 15A, 15B

On Tuesday, October 10, 1972, ALPHONSE CUZZO observed entering a public telephone booth at E. 241st & Furman, Bronx, N.Y. at 10:43 p.m. This booth examined at 10:47 p.m. by Federal Bureau of Investigation Agent and 2 white envelopes located, one bearing initial "M", MICHAEL ROMAN entered this same phone booth at 12:49 a.m. and examination of booth at 12:55 a.m. reflected that envelopes were gone.

On Wednesday October 11, 1972, MICHAEL ROMAN and JEAN BUJESE arrived at above telephone booth at 11:00 p.m. MICHAEL ROMAN ran right hand under shelf, then left. At 11:35 p.m. MICHAEL ROMAN returned to booth and repeated above procedure. At 1:00 a.m. ALPHONSE CUZZO met with MICHAEL ROMAN next to the

phone booth.

On Thursday, October 12, 1972, ALPHONSE CUZZO entered same booth at 11:58 p.m. MICHAEL ROMAN entered booth at 12:21 a.m.

On Friday, October 13, 1972, ALPHONSE CUZZO entered same booth at 10:41 p.m. Federal Bureau of Investigation Agent examined this booth 10 minutes later and found 2 white envelopes wedged under the counter. One envelope again bore the initial "M" and were of same size and color observed by same Agent on October 10, 1972.

ANTHONY POLITI
Defendant

VINCENT LANNA, ESQ.
Defense Counsel

PHILIP POLITI
Defendant

GERALD POLITI
Defendant

HARRY WEIS
Defendant

IRVING ANOLIK, ESQ.
Defense Counsel

EDDIE WASHINGTON
Defendant

LEONARD HARRISON
Defendant

LAWRENCE JOHNSON
Defendant

DAVID BLACKSTONE, ESQ.
Defense Counsel

ARTHUR FRANGELLO
Defendant

LOUIS VISCONTI
Defendant

PATRICK M. WALL, ESQ.
Defense Counsel

ROBERT PETERS
Defendant

EDWARD S. PANZER, ESQ.
Defense Counsel

MICHAEL ROMAN
Defendant

HERALD PRICE FAHRINGER, ESQ.
Defense Counsel

ANTHONY CUZZO
Defendant

GEORGE J. BELLANTONI, ESQ.
Defense Counsel

JOEL M. FRIEDMAN
Special Attorney
U. S. Department of Justice

STIPULATION RE: TESTIMONY OF DAVID WEYGANT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

-v- :

ANTHONY POLITI, et al., :

Defendants. :

STIPULATION

It is hereby stipulated and agreed that if DAVID WEYGANT were called on behalf of the United States, he would, after having been sworn, testify as follows:

About the first week in May, 1972 LOUIS VISCONTI talked to him in New Windsor, N. Y. He offered him $125 a week, 3 hours per day, 6 days per week. LOUIS VISCONTI told him he would be picking up policy work. DAVID WEYGANT asked LOUIS VISCONTI what the risks were. LOUIS VISCONTI said don't worry about it, we're covered. He said we've spent money to keep it cool even if you get arrested we'll take care of it. He told DAVID WEYGANT if he was followed he should throw the stuff out of the car. LOUIS VISCONTI told DAVID WEYGANT that he was working for some pretty big people. LOUIS VISCONTI instructed DAVID WEYGANT that if on his route he was followed he should throw the package out the car window, but remember where he had thrown it so that he could pick it up later.

LOUIS VISCONTI took him to a few stops the next day. However, LOUIS VISCONTI told DAVID WEYGANT before he'd be hired he had to first be approved by the boss. LOUIS VISCONTI told DAVID WEYGANT to behave properly and not say anything to the boss unless asked. Monday morning about 9 A.M. he drove with LOUIS VISCONTI to Nanuet, N. Y. They entered a diner. LOUIS VISCONTI introduced DAVID WEYGANT to MICHAEL ROMAN, MICHAEL ROMAN and LOUIS VISCONTI talked for a while. DAVID WEYGANT

went back to the car they had arrived in. LOUIS VISCONTI carrying nothing entered MICHAEL ROMAN's car with MICHAEL ROMAN. LOUIS VISCONTI exited carrying a bag by his side in his hand. When LOUIS VISCONTI entered the car DAVID WEYGANT was in, he opened the bag. The bag contained several packages of money wrapped in paper with notations. LOUIS VISCONTI told DAVID WEYGANT this was hit money. After LOUIS VISCONTI showed the money to DAVID WEYGANT, the two of them drove to Poughkeepsie, N. Y. and Beacon, N. Y. where LOUIS VISCONTI passed out the hit money. One of the houses to which LOUIS VISCONTI delivered the hit money was LAWRENCE JOHNSON's. This took place between about 9 and 10 A.M. At about 3:30 or 4:00 DAVID WEYGANT then picked up sheets full of bets from two spots in Beacon, he put the sheets in envelopes and marked the runner code number for each spot on the envelope as LOUIS VISCONTI had directed him. He then picked up two bags from LAWRENCE JOHNSON one containing money and one containing policy work. He gave all packages to LOUIS VISCONTI.

A few days later, LOUIS VISCONTI and DAVID WEYGANT went to Central Valley, N. Y., after DAVID WEYGANT had already picked up that day's sheets from Beacon and the two bags from LAWRENCE JOHNSON. LOUIS VISCONTI introduced DAVID WEYGANT to MICHAEL CAMPOREALE and DAVID WEYGANT gave the policy work to MICHAEL CAMPOREALE.

LOUIS VISCONTI told DAVID WEYGANT that he should always deliver the money to him, because he was responsible for it. He also explained to DAVID WEYGANT that the money and policy work were separated so that one could not arrest one person and get both money and policy work on the same person.

The day after meeting MICHAEL CAMPOREALE, DAVID WEYGANT went to Beacon and picked up the sheets and to Poughkeepsie where he received the policy work and money from LAWRENCE JOHNSON. Then he went to Newburgh, N. Y. and gave the money to LOUIS VISCONTI. LOUIS VISCONTI introduced him to LEONARD HARRISON. LEONARD HARRISON handed a package of policy work to LOUIS VISCONTI and LOUIS VISCONTI handed it to DAVID WEYGANT. DAVID WEYGANT then proceeded to Nanuet. N. Y.

and handed the packages and envelopes to MICHAEL CAMPOREALE. This was done between about 3:30 and 5:30 P.M. MICHAEL CAMPOREALE told him to meet him the next day at Bear Mountain. MICHAEL CAMPOREALE said he would have a girl with him and that DAVID WEYGANT should bring someone with him. The next day in the late afternoon, DAVID WEYGANT picked up as before from Beacon, and LAWRENCE JOHNSON in Poughkeepsie, N. Y. He then met EILEEN MORAN in Newburgh, N. Y., handed her the policy work he had picked up. EILEEN MORAN and DAVID WEYGANT then went to Bear Mountain, N. Y. MICHAEL CAMPOREALE introduced EILEEN MORAN to PATRICIA HYATT and told them to make arrangements for future pick ups. EILEEN MORAN handed the policy work to PATRICIA HYATT.

For about a month after the meeting between DAVID WEYGANT, MICHAEL CAMPOREALE, PATRICIA HYATT and EILEEN MORAN, between 3:30 and 6:30 DAVID WEYGANT continued to pick up sheets of policy bets from stops in Beacon, N. Y. and to pick up bags of policy work and money from LAWRENCE JOHNSON in Poughkeepsie, N. Y. He did this six days a week, and after making these pickups return the money to LOUIS VISCONTI and the policy work to EILEEN MORAN in the vicinity of Newburgh, N. Y. He did this until mid-June 1972 when he was arrested.

About mid-May, 1972, DAVID WEYGANT was at LOUIS VISCONTI's. It was approximately 5:30. DAVID WEYGANT said he wanted to make a phone call. LOUIS VISCONTI told him he could make the call, because every night he had to meet "Mike" at about 5:30, and before meeting "Mike" he would get a phone call from him.

About the second week that he started working LOUIS VISCONTI told him to come by in the morning. DAVID WEYGANT went to LOUIS VISCONTI's and was handed the package of hit money. DAVID WEYGANT went to the spots in Beacon, and to LAWRENCE JOHNSON in Poughkeepsie and delivered the hit money. He did this every morning until he stopped in mid-June 1972. He was arrested by the Federal Bureau of Investigation in mid-June, 1972.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- : 73 CR 56

ANTHONY POLITI, et al., :

Defendants. :

----------x

STIPULATION

It is hereby stipulated and agreed that if DAN REIDY and JOE TRIPODO, of the New York State Police, were called on behalf of the United States, they would, after having been sworn, testify as follows:

On Wednesday, November 10, Thursday, November 11, and Friday, November 12, 1971, ARTHUR FRANGELLO met PATRICIA HYATT in the rear of 354 Washington St., Newburgh, N.Y.; PATRICIA HYATT then met HARRY WEIS for approximately 5 minutes in Rockland County, New York; PATRICIA HYATT then met PHILIP POLITI at another location in Rockland County.

On Tuesday, April 4, 1972, LEONARD HARRISON received an envelope from an unknown male, met another male, then met EDDIE WASHINGTON in front of/and entered 199 South St., Newburgh together where they stayed for 20 minutes. LEONARD HARRISON and EDDIE WASHINGTON left 199 South St. at 4:50 p.m. LEONARD HARRISON then met PATRICIA HYATT in Cornwall, N. Y. and handed her a package.

On Wednesday, April 5, 1972, LEONARD HARRISON followed same pattern as above except, in addition, he met ARTHUR FRANGELLO in Newburgh after meeting EDDIE WASHINGTON before meeting PATRICIA HYATT. LEONARD HARRISON followed this same pattern on Thursday, April 6 and Friday, April 7, 1972.

On Wednesday, May 24, Thursday, May 25, Friday, May 26 and Tuesday, June 6, Wednesday, June 7, Thursday, June 8, and Friday, June 9, 1972, EDDIE WASHINGTON waited in front of 199 South St. for LEONARD HARRISON to arrive at which time both men entered same address.

On Monday, November 8, Tuesday, November 9, Thursday, November 11, Friday, November 12, Monday, November 15, Tuesday, November 16, Wednesday, November 17, Thursday, November 18 and Friday, November 19, 1971, PHILIP POLITI met a negro male in Fort Montgomery, N. Y. area at approximately 4:00 p.m., then met PATRICIA HYATT in Rockland County at approximately 5:30 p.m. PHILIP POLITI received envelopes from the above negro male on Monday, November 8 and Thursday, November 11, 1971.

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STIPULATION RE: TESTIMONY OF DAN REIDY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- : 73 CR 56

ANTHONY POLITI, et al., :

Defendants. :

----------x

STIPULATION

It is hereby stipulated and agreed that if DAN REIDY, JOE TRIPODO and HARRY MILLS were called on behalf of the United States, they would, after having been sworn, testify as follows:

On November 23, 1971, PHILIP POLITI was arrested by the New York State Police on felony gambling charges. Seized from PHILIP POLITI and his car were policy bets and records. Gov. Exhibits 4

On November 23, 1971, ARTHUR FRANGELLO was arrested by the New York State Police in the residence at 354 Washington Street, Newburgh. Said residence was searched and the following bets and records were seized:

Government Exhibits 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- : AFFIDAVIT

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON, and HARRY WEIS, :

Defendants. :

----------x

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

J. LAWRENCE SILVERMAN, being duly sworn, deposes:

1. I am a Special Attorney for the United States Department of Justice, Joint Strike Force on Organized Crime and Racketeering, Southern District of New York, assigned to the prosecution of the above captioned matter and, as such, am familiar with all the facts herein.

2. On September 26, 1973 all of the above named defendants were found guilty by the Honorable Morris E. Lasker, District Judge on all of the counts charged in Indictment 73 Cr. 56.

3. On said date the Honorable Morris E. Lasker, pursuant to United States v. Alderman 394 U.S. 165 (1969) required the Government to file with the Court transcripts of all intercepted conversations in which any of the above defendants were a party, to determine whether any of the evidence used in the above trial was obtained by unlawful electronic eavesdropping.

4. Pursuant to a request made by Special Attorney Joel M. Friedman, this office received from Henry E. Peterson, Assistant Attorney General, Criminal Division, U. S. Department of Justice, notification that since July 1963 none of the above defendants was at any time overheard by electronic

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surveillance by either the Federal Bureau of Investigation, United States Secret Service, United States Postal Service, Bureau of Narcotics & Dangerous Drugs or the Bureau of Alcohol, Tobacco and Firearms. (Exhibit A).

5. Inquiry was also made of the District Attorneys of Orange, Rockland and Westchester Counties to determine whether any of their respective offices had intercepted conversations of any of the above defendants by electronic surveillance.

6. On January 30, 1973 the Government received from the Orange County District Attorney copies of eavesdropping warrants and affidavits in support thereof. These warrants were issued in May, June and July, 1970 and signed by the Honorable Abraham Isseks, Orange County Judge. (Exhibit B).

7. Included in the material received from the Orange County District Attorney was a transcript of a conversation between one of the defendants ANTHONY POLITI and one Allan Handler intercepted pursuant to an eavesdropping warrant authorizing the wiretapping of telephone number 914-561-4588 listed to Allan Handler, Mount Airy Road, Newburgh, New York. (Exhibit C).

8. An examination of the above applications and affidavits in support thereof, appear to fulfill the requirements of probable cause for their issuance.

9. The recording of the conversation in which the defendant ANTHONY POLITI was a party was made by a voice activated recording device placed on the telephone of Allan Handler. Therefore, the defendant ANTHONY POLITI who did not use Allan Handler's phone does not have standing to contest the lack of minimization of this interception.

10. This conversation represents the only intercepted communication provided to the Government in which any of the above named defendants were a party.

11. No evidence or leads therefrom, used at the above trial, was obtained from the intercepted conversation between the defendant ANTHONY POLITI and Allan Handler.

12. In response to inquiries made of the Rockland and Westchester District Attorneys offices, on October 9, 1973 Bob C. Reutter, Special Agent, Federal Bureau of Investigation, was informed that conversations of two of the above named defendants MICHAEL ROMAN and LOUIS VISCONTI, were intercepted pursuant to New York State court ordered wiretaps.

13. The defendants ROMAN and VISCONTI were only parties to these intercepted conversations and were not the subjects of the eavesdropping warrants.

14. To date, this office nor any agents assigned to the investigation of this case are aware of the substance or content of any of these intercepted conversations and the Government will obtain and provide copies of these conversations to the defendants as soon as possible.

WHEREFORE, the Government respectfully requests that defendants motion for suppression of the evidence be denied since no evidence used at the trial was obtained by unlawful electronic surveillance.

J. Lawrence Silverman

J. LAWRENCE SILVERMAN
Special Attorney
U. S. Department of Justice

Subscribed and sworn to before me
this 10 day of Oct, 1973.

Notary Public

Bronx County
Term Expires

EXHIBIT A - LETTER DATED JUNE 22, 1973 FROM DEPARTMENT OF JUSTICE TO JOEL FRIEDMAN ANNEXED TO FOREGOING AFFIDAVIT

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
HEP:WSB:ADP:lrt
177-012

JUN 22 1973

Mr. Joel Friedman
Special Attorney
New York Strike Force
New York, New York

Dear Mr. Friedman:

This is with regard to your request that we ascertain whether the following individuals were monitored by electronic surveillance.

A review of the Department of Justice files discloses no information indicating that conversations of Michael Anthony Camporeale, Alphonse Anthony Cuzzo, Arthur Frangello, Leonard Harrison, Lawrence E. Johnson, Robert C. Peters, Anthony Politi, Gerald Robert Politi, Philip James Politi, Michael Adam Roman, Jr., Louis Thomas Visconti, Eddie L. Washington, and Harry Weis, were at any time overheard by electronic surveillance or that premises known to be owned, leased, or licensed by them were covered by electronic surveillance by the Federal Bureau of Investigation.

Our files disclose that on certain days during April, May, June, and July, 1963, an undercover agent of the Internal Revenue Service telephonically placed bets using telephone numbers supplied by a bookmaker. He recorded, with the assistance of another special agent, his placing of bets by means of a tape recorder. These telephone numbers were subsequently traced to a multi-dwelling building located at 100 Pocantico Street, North Tarrytown, New York. Armed with a search warrant, special agents of the Intelligence Division, Internal Revenue Service, raided the suspected premises and arrested Alphonse Cuzzo. The tapes were retained in the Manhattan office of the Intelligence Division, Internal Revenue Service, and you can obtain them from that office, if necessary.

Since the above-mentioned surveillance occurred prior to June 19, 1968, and more than five years prior to September 1, 1970, the date of the offenses alleged in the indictment in this case, the logs are not subject to production in accordance with the provisions of Section 3504 of Title 18, United States Code.

None of the other individuals named above were subjected to electronic surveillance by the Internal Revenue Service.

Also, none of the above-named individuals were subjected to electronic surveillance by the United States Secret Service, the United States Postal Service, the Bureau of Narcotics and Dangerous Drugs, or the Bureau of Alcohol, Tobacco, and Firearms.

Sincerely,

HENRY E. PETERSEN
Assistant Attorney General
Criminal Division

By: William S. Lynch
WILLIAM S. LYNCH
Chief, Organized Crime and
Racketeering Section
Criminal Division

AFFIDAVIT OF W. T. KUNOWSKI

STATE OF NEW YORK ~~SUPREME COURT NINTH JUDICIAL DISTRICT~~ County Court Orange County

In the matter of the application of ANGELO INGRASSIA, District Attorney, of Orange County for an Eavesdropping Warrant authorizing the wiretapping of telephone number 914-561-8151 and 561-2373 listed to KAY SPANER, Noel Drive, Newburgh, New York

SUPPORTING AFFIDAVIT

State of New York
County of Orange

W. T. KUNOWSKI, being duly sworn, deposes and says: That he is an Investigator of the Bureau of Criminal Investigation of the New York State Police, Troop F, Middletown, New York.

That one, MOE SPANER is believed to be committing crimes against the Penal Law of the State of New York, to wit: Promoting Gambling in the First Degree (PL 225.10) Promoting Gambling in the Second Degree (PL 225.05) Possession of Gambling Records First Degree (PL 225.20) Possession of Gambling Records Second Degree (PL 225.15) and Criminal Conspiracy in the Third and Fourth Degree (PL 105.05 and 105.00).

That such belief is based upon the following facts which are his own personal knowledge or which have been communicated to him in his capacity of an Investigator of the Bureau of Criminal Investigation through regular police and intelligence communications as follows:

1. That an informant of known reliability whose identity cannot be disclosed, who has forwarded information in the past that has resulted in the arrest of AUGUST SMREK, DOLORES MITCHELL and LOUIS VISCONTI on 11/7/69 for Promoting Gambling and Possession of Gambling Records and their subsequent convictions on 5/7/70 of Gambling violations, has advised that MOE SPANER, Noel Drive, Newburgh, New York is engaged in accepting bets on horse races, sports events and policy numbers over telephone 914-561-

2373 and 914-561-8151 listed to KAY SPANER, Noel Drive, Newburgh, New York and that he is engaged in this bookmaking operation with one ALBERT TOMASI, Beacon, New York. Further that during March 1970 he had made bets on horse races, basketball games, and policy numbers to MOE SPANER over telephone numbers 914-561-8151 and 914-561-2373.

2. That a toll analysis of telephone 914-561-2373 and 561-8151 reveals calls on a daily basis being made to 914-831-7727 and 914-831-9849 listed to ALBERT TOMASI, Main Street. Beacon, New York.

3. That it has been revealed through normal police channels that ALBERT TOMASI, Beacon, New York was arrested for Promoting Gambling and Possession of Gambling Records on 5/29/69, and convicted on 6/29/69. It is further known through other police sources that ALBERT TOMASI is presently engaged in a bookmaking operation.

4. That a toll analysis of telephone 914-831-7727 listed to ALBERT TOMASI indicate calls on a daily basis to 914-561-2373 listed to KAY SPANER, Noel Drive, Newburgh, New York.

5. That surveillances conducted periodically at the MOE SPANER residence indicates that he is normally present during the day. And on 4/28/70 an unidentified subject was seen leaving the SPANER residence in a 1964 green Pontiac, New York registration 1136YO listed to CONSTANCE MARTONE, Roman Gardens, Newburgh, New York which has been seen on six different occasions at the SPANER residence. Surveillance revealed that this vehicle proceeded to TOMASI's Lunch, Beacon, New York.

6. That in my personal knowledge that during October 1969 as the result of a gambling operation investigation MOE SPANER was "laying off" numbers bets to AUGUST SMREK, 37 Forge Hill Gardens, Newburgh, New York who was at the time operating a bookmaking operation and has since been arrested for Gambling

7. That based upon my experience as a Police Officer in other gambling investigations that the type of bets being made in the previous paragraph were in fact "lay off" bets which are bets "laid off" by one bookmaker to another when he has a heavy play and not bets as made by an individual bettor.

8. That this investigation indicates that MOE SPANER is presently involved in a Bookmaking operation with ALBERT TOMASI and other persons unknown and that normal investigative procedures appear too dangerous to employ as ordinary investigative procedures in this case would jeopardize the investigation. This is evident as MOE SPANER receives and lays off his bets using only the telephone in his residence. Therefore continuous surveillances would be of no consequence and would undoubtedly be detected by those persons involved.

9. Further that normal investigative procedures thus far have not obtained complete information as to specific locations, the times when and the persons with or in respect to whom the crimes aforementioned are being, have been or will be committed and that further use of normal investigative procedures would be unsuccessful if attempted.

10. That conversations mentioned are not privileged under any statute or constitutional provision except against Eavesdropping without an Eavesdropping Warrant.

11. That it cannot be determined with any degree of certainty when the conversations or discussions of the type sought to be overheard will occur and that no one such conversation or discussion will constitute the evidence sought.

12. That the overhearing and recording by wiretapping of conversations and discussions of MOE SPANER and others who consort with him is necessary in order to obtain sufficient evidence

for the detection, apprehension and conviction of the said MOE SPANER and other persons engaged with him in committing crimes herein before described.

W. T. KUNOWSKI

Subscribed and sworn to before me
this _____ day of May 1970

BLAISE MITHIG - NOTARY PUBLIC
ORANGE COUNTY, NEW YORK
COMM. EXPIRES MAR. 30, 19__

EAVESDROPPING WARRANT

STATE OF NEW YORK

COUNTY COURT : COUNTY OF ORANGE

- -

IN THE MATTER OF THE APPLICATION OF :
ANGELO J. INGRASSIA, DISTRICT ATTORNEY OF :
ORANGE COUNTY, FOR AN EAVESDROPPING WARRANT
AUTHORIZING THE WIRETAPPING OF TELEPHONE :
NUMBERS 914-561-8151 and 914-561-2373 LISTED
TO KAY SPANER, NOEL DRIVE, NEWBURGH, NEW YORK, :

EAVESDROPPING WARRANT. :

- -

STATE OF NEW YORK:
VILLAGE OF GOSHEN: ss.:
COUNTY OF ORANGE :

In The Name of the People of the State of New York:

TO ANGELO J. INGRASSIA, District Attorney of the County of Orange, at Goshen, New York:

On reading the application of ANGELO J. INGRASSIA, sworn to on the 15th day of May, 1970, and the affidavit of W. T. Kunowski, Investigator of the New York State Police, sworn to on the 13th day of May, 1970, in support of such application, and it appearing from the statement of facts therein contained, in compliance with Title 3, of Part 6 of the Code of Criminal Procedure, establishing that there is reasonable cause to believe that there has been, is being, or is about to be committed the following crimes against the Penal Law of the State of New York, to wit, Promoting Gambling in the First Degree (Section 225.10); Possession of Gambling Records in the First Degree (Section 225.20) and Criminal Conspiracy in the Third and Second Degree (Sections 105.05 and 105.10), and it appearing that telephone conversations and discussions of MOE SPANER from New York Telephone Company numbers 914-561-2373 and 914-561-8151, and the conversations of others acting in concert with him and using such telephones will constitute evidenct of such crimes or that such conversations will aid in the apprehension of the perpetrators of such crimes, and it appearing that such conversations may be obtained by the

wiretapping and recording of the conversations on telephone numbers 914-561-2373 and 914-561-8151, listed in the records of the New York Telephone Company to KAY SPANER and that other means have been tried and have failed to obtain the said evidence.

1. You, or any other person or persons expressly designated by you for that purpose, are therefore commanded to obtain by wiretapping, conversations and discussions pertinent to the said crimes, and the conspiracy to commit the said crimes, and

2. Are further commanded that such mechanical overhearing shall take effect on May 18th, 1970, or as soon thereafter as is reasonably practicable and that such eavesdropping shall not cease after any one or more of the above described conversations shall have been overheard, but shall cease at the close of the 30th calendar day after the above mentioned date, or on the day thereafter which is thirty (30) calendar days after the date of actual installation, whichever last occurs and that such eavesdropping may be conducted at all hours of the day and night.

3. You, or any other person or persons designated by you for the purpose, are further commanded and expressly authorized to overhear and intercept all conversations on telephone numbers 914-561-2373 and 914-561-8151.

You, or any other persons expressly designated by you for the purpose, are further commanded that this Warrant shall be executed as soon as may be practical and that within fourteen (14) days after the termination of this Warrant or the last renewal of it, you or the person or persons expressly designated by you to execute this Warrant, shall make a return to me in accordance with the provisions of said Title III, Part 6, of the Code of Criminal Procedure, Notice to subjects KAY SPANER and MOE SPANER is hereby waived since there are in existence exigent circumstances.

Dated: This 15th day of May, 1970.

Orange County Judge

EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO INGRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY, NEW YORK AT GOSHEN, NEW YORK FOR AN EAVESDROPPING WARRANT RENEWAL AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBERS 914-561-8151 and 914-561-2373 LISTED TO KAY SPANER, NOEL DRIVE, NEWBURGH, NEW YORK

EAVESDROPPING WARRANT RENEWAL.

STATE OF NEW YORK:
VILLAGE OF GOSHEN: SS.:
COUNTY OF ORANGE :

In the Name of the People of the State of New York:

TO ANGELO J. INGRASSIA, District Attorney of the County of Orange, at Goshen, New York:

On reading the application of ANGELO J. INGRASSIA, District Attorney, sworn to on the 18 day of June 1970 and the affidavit of W. T. KUNOWSKI, Investigator of the New York State Police, sworn to on the 18 day of June 1970 in support of such application, and it appearing from the statement of facts therein contained in compliance with Sections 814 et. seq. of the Code of Criminal Procedure, establishing that there is reasonable cuase to believe that there has been, is being and is bout to be committed the following crimes against the Penal Law of the State of New York, to wit: Promoting Gambling (Section 225.10); Possession of Gambling Records in the First Degree (Section 225.20) and Criminal Conspiracy in the Third Degree and Second Degree (Sections 105.05) and(105.10), and it appearing that the continued wiretapping and recording of the conversations and discussions of MOE SPANER, Noel Drive, Newburgh, New York, under telephone numbers 914-561-8151 and 914-561-2373 and the conversations of others acting in concert with him using said

premises will constitute evidence of such crimes or that such conversations and discussions will aid in the apprehension of the perpetrators of such crimes, and it appearing that such conversations may be obtained by the wiretapping and recording of the conversations on telephone numbers 914-561-8151 and 914-561-2373 listed in the records of the New York Telephone Company to KAY SPANER and it further appearing that normal investigative procedures have been tried and failed to obtain the said evidence.

1. You, or any other person or persons expressly designated by you for that purpose, are therefore commanded to obtain by wiretapping, conversations and discussions pertinent to the said crimes and the conspiracy to commit the said crimes, and

2. Are further commanded that such mechanical overhearing shall take effect on June 20, 1970 or as soon thereafter as is reasonably practicable and that such eavesdropping shall not cease after any one or more of the above described conversations shall have been overheard, but shall cease at the close of the 30th calendar days after the date of actual installation, whichever last occurs and that such eavesdropping may be conducted at all hours of the day and night.

3. You, or any other person or persons designated by you for the purpose, are further commanded and expressly authorized to overhear and intercept all conversations on telephone numbers 914-561-8151 and 914-561-2373.

You, or any other persons expressly designated by you for the purpose, are further commanded that this Warrant shall be executed as soon as may be practical and that within fourteen (14) days after the termination of this Warrant or the last renewal of it, you or theperson or persons expressly designated

by you to execute this Warrant, shall make a return to me in accordance with the provisions of said Title III, Part 6, of the Code of Criminal Procedure. Notice to subject KAY SPANER is hereby waived since there are in existence exigent circumstances.

Orange County Judge.

Dated: This Day 19th of June 1970.

AFFIDAVIT OF ANGELO J. INGRASSIA IN SUPPORT OF EAVESDROPPING WARRANT RENEWAL 101a

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO INGRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY NEW YORK AT GOSHEN, NEW YORK FOR AN EAVESDROPPING WARRANT RENEWAL AUTHORIZING THE WIRETAPPING of TELEPHONE NUMBERS 914-561-8151 and 914-561-2373 LISTED TO KAY SPANER, NOEL DRIVE, NEWBURGH, NEW YORK

APPLICATION RENEWAL.

STATE OF NEW YORK:
VILLAGE OF GOSHEN: SS.:
COUNTY OF ORANGE :

ANGELO J. INGRASSIA, being duly sworn, deposes and says:

That he is the District Attorney of Orange County, New York and hereby makes application that an eavesdropping warrant renewal be issued to permit him or Investigator W. T. KUNOWSKI a member of the New York State Police, expressly designated by me for the purpose of continuing a wiretap on telephone numbers 914-561-8151 and 914-561-2373 listed in the records of the New York Telephone Company for KAY SPANER, Noel Drive, Newburgh, New York. Also that said warrant shall authorize such wiretapping for a period of thirty (30) days beginning June 20, 1970 or as soon thereafter as is reasonably practicable, and that such wiretapping be conducted at any and all times of the day or the night during such period.

That the following STATEMENT OF FACTS upon which this application is made be based upon information and belief and upon the affidavit of W. T. KUNOWSKI, attached hereto, dated June 18, 1970 as follows:

1. That MOE SPANER, acting in concert with others, has committed and is committing offenses against the Penal Law of the State of New York as alleged in the original application herein.

2. That pursuant to the eavesdropping warrant dated May 15, 1970 the following information was overheard:

a. From a period commencing on or about May 22, 1970 through June 17, 1970 many bets and wagers have been overheard over the telephone, said bets and wagers having been made on horse races, and wagers on numbers.

3. The specific locations from where the calls were made to the subject premises or the subject phoned have not been established and normal investigative procedures have not developed evidence thereof.

4. The conversations mentioned are not privileged under any statute or constitutional provision except against Eavesdropping without a proper Eavesdropping Warrant.

5. That it cannot be determined with any degree of certainty when the conversation will constitute the evidence sought.

6. The only previous application which was made for an eavesdropping warrant with respect to telephone numbers 914-561-8151 and 914-561-2373 is the aforesaid original eavesdropping warrant dated May 15, 1970.

7. That the investigation herein is still continuing and disclosure of the fact that an eavesdropping warrant has been issued would jeopardize and terminate the investigation herein. Therefore your deponent requests that the notice required to be given pursuant to Section 823 of the Code of Criminal Procedure should be waived since there are in existence exigent circumstances as aforesaid.

ANGELO J. INGNASSIA

Sworn to before me this
18 Day of June 1970.

AFFIDAVIT OF W.T. KUNOWSKI IN SUPPORT OF EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO INGRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY, NEW YORK, AT GOSHEN, NEW YORK FOR AN EAVESDROPPING WARRANT RENEWAL AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBER 914-561-8151 AND 914-561-2373 LISTED TO KAY SPANER, NOEL DRIVE, NEWBURGH, NEW YORK.

SUPPORTING AFFIDAVIT RENEWAL.

STATE OF NEW YORK :
VILLAGE OF GOSHEN : ss.:
COUNTY OF ORANGE :

W. T. KUNOWSKI, being duly sworn, deposes and says:

That he is an Investigator with the Bureau of Criminal Investigation of the New York State Police, Troop "F", Middletown, New York.

That in such capacity and as part of his duties he makes the following affidavit.

That pursuant to an eavesdropping order and warrant made and dated May 15, 1970, by Hon. Abraham Isseks, County Judge of Orange County directing and permitting the wiretapping of telephone instruments 914-561-8151 and 914-561-2373, listed in the telephone records to KAY SPANER, Noel Drive, Newburgh, New York, the following pertinent information was obtained relevant to the commission and continuing commission of the crimes of Promoting Gambling in the First Degree (Section 225.10); Possession of Gambling Record in the First Degree (Section 225.20) and Criminal Conspiracy in the Third and Second Degree (Section 105.05 and 105.10).

That pursuant to the aforesaid order and warrant, the above referred telephone instruments were monitored and on May 22 and 23, 1970, subjects were overheard placing bets on

horseraces and numbers. On May 25 and 26, 1970, subjects were 104a
overheard placing bets on horse races and numbers. The subjects were also overheard taking bets on horse races and numbers on May 27th, 28th, 29th, 30th, June 1st, 2nd, 3rd, 4th, 5th, 6th, 8th, 9th, 10th, 11th, 12, 13th. Subjects were also overheard placing bets on horse races and numbers on June 17th, 1970.

That I repeat and re-allege, as though fully set forth herein, all the information set forth in my affidavit dated and sworn to on the 13th day of May, 1970 and that the investigation herein is continuing and that disclosure would jeopardize the investigation. Your deponent respectfully urges upon this Court that it is imperative to continue the investigation and that an additional renewal be granted. There are exigent circumstances which continue to exist requiring the preservation of secrecy as set forth in the original papers herein. This due to the fact that disclosure at this time would jeopardize and make futile any continuing investigation.

Sworn to before me this

18th day of June, 1970.

PLEASE NOTARY PUBLIC
QUEENS COUNTY, NEW YORK

EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO INGRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY, NEW YORK, AT GOSHEN, NEW YORK, FOR AN EAVESDROPPING WARRANT RENEWAL AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBERS 914-561-8151 AND 914-561-2373 LISTED TO KAY SPANER, NOEL DRIVE, NEWBURGH, NEW YORK

2nd renewal
7/17/70

EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK :
VILLAGE OF GOSHEN : SS.:
COUNTY OF ORANGE :

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:

TO ANGELO J. INGRASSIA, District Attorney of the County of Orange, at Goshen, New York:

On reading the application of ANGELO J. INGRASSIA, District Attorney, sworn to on the 17th day of July, 1970 and the Affidavit of W. T. KUNOWSKI, Investigator of the New York State Police, sworn to on the 16th day of July, 1970 in support of such application, and it appearing from the statement of facts therein contained in compliance with Section 814 et. seq. of the Code of Criminal Procedure, establishing that there is reasonable cause to believe that there has been, is being and is about to be committed the following crimes against the Penal Law of the State of New York, to wit: Promoting Gambling (Section 225.10); Possession of Gambling Records (Section 225.20) and Criminal Conspiracy in the Third and Second Degree (Sections 105.05 and 105.10), and it appearing that the continued wiretapping and recording of the conversations and discussions of HOE SPANER, Noel Drive, Newburgh, New York, under telephone numbers 914-561-8151 and 914-561-2373 and the conversations of others acting in concert with him using said premises will constitute evidence of such crimes or that such conversations and discussions will aid in the apprehension of the perpetrators of such crimes, and it appearing that such conversations may be obtained by the wiretapping and recording of the conversations

on telephone numbers 914-561-8151 and 914-561-2373 listed in the records of the New York Telephone Company to KAY SPANER and it further appearing that normal investigative procedures have been tried and failed to obtain the said evidence.

1. You, or any other person or persons expressly designated by you for that purpose, are therefore commanded to obtain by wiretapping, conversations and discussions pertinent to the said crimes and the conspiracy to commit the said crimes, and

2. Are further commanded that such mechanical overhearing shall take effect on July 20, 1970 or as soon thereafter as is reasonably practicable and that such eavesdropping shall not cease after any one or more of the above described conversations shall have been overheard, but shall cease at the close of the 30th calendar day after the date of actual installation, whichever last occurs and that such eavesdropping may be conducted at all hours of the day and night.

3. You, or any other person or persons designated by you for the purpose, are further commanded and expressly authorized to overhear and intercept all conversations on telephone numbers 914-561-8151 and 914-561-2373.

You, or any other persons expressly designated by you for the purpose, are further commanded that this Warrant shall be executed as soon as may be practicable and that within fourteen (14) days after the termination of this Warrant or the last renewal of it, you or the person or persons expressly designated by you to execute this Warrant, shall make a return to me in accordance with the provisions of said Title III, Part 6, of the Code of Criminal Procedure. Notice to subject KAY SPANER is hereby waived since there are in existence exigent circumstances.

Orange County Judge

Dated: This 17th day of July, 1970.

AFFIDAVIT OF ANGELO J. INGRASSIA IN SUPPORT OF EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO INGRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY, NEW YORK AT GOSHEN, NEW YORK FOR AN EAVESDROPPING WARRANT RENEWAL AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBERS 914-561-8151 AND 914-561-2373 LISTED TO KAY SPANER, NOEL DRIVE, NEWBURGH, NEW YORK

APPLICATION RENEWAL

STATE OF NEW YORK :
VILLAGE OF GOSHEN : SS.:
COUNTY OF ORANGE :

ANGELO J. INGRASSIA, being duly sworn, deposes and says:

That he is the District Attorney of Orange County, New York, and hereby makes application that an Eavesdropping Warrant Renewal be issued to permit him or Investigator W. T. KUNOWSKI or Senior Investigator T. J. BUTLER, members of the New York State Police, expressly designated by me for the purpose of continuing a wiretap on telephone numbers 914-561-9151 and 914-561-2373 listed in the records of the New York Telephone Company for KAY SPANER, Noel Drive, Newburgh, New York. Also that said Warrant shall authorize such wiretapping for a period of thirty (30) days beginning July 20, 1970 or as soon thereafter as is reasonably practicable, and that such wiretapping be conducted at any and all times of the day or the night during such period.

That the following statement of facts upon which this application is made be based upon information and belief and upon the Affidavit of W. T. KUNOWSKI, attached hereto, dated July 16th 1970 as follows:

1. That NOZ SPANER, acting in concert with others, has committed and is committing offenses against the Penal Law of the State of New York as alleged in the Original application herein.

2. That pursuant to the eavesdropping warrant dated May 15, 1970 the following information was overheard:

From a period commencing on or about June 23, 1970 through July 15, 1970 many bets and wagers have been overheard

over the telephone, said bets and wagers having been made on horse races and policy numbers. 108a

3. The specific locations from where the calls were made to the subject premises or the subject phone have not been established and normal investigative procedures have not developed evidence thereof.

4. The conversations mentioned are not privileged under any statute or constitutional provision except against Eavesdropping without a proper Eavesdropping Warrant.

5. That it cannot be determined with any degree of certainty when the conversation will constitute the evidence sought.

6. The only previous application which was made for an Eavesdropping Warrant with respect to telephone numbers 914-561-8151 and 914-561-2373 is the aforesaid original Eavesdropping Warrant dated May 15, 1970, and extension dated June 19, 1970.

7. That the investigation herein is still continuing and disclosure of the fact that an Eavesdropping Warrant has been issued would jeopordize and terminate the investigation herein.

Therefore your deponent requests that the notice required to be given pursuant to Section 823 of the Code of Criminal Procedure should be waived since there are in existence exigent circumstances as aforesaid.

Sworn to before me this
17th day of July, 1970.

FRANCES BORELLA
Notary Public, State of New York
Residing in Orange County
My commission expires Mar. 30, 19[illegible]

AFFIDAVIT OF W.T. KUNOWSKI IN SUPPORT OF EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ORANGE

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IN THE MATTER OF THE APPLICATION OF ANGELO ERRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY, NEW YORK, AT GOSHEN, NEW YORK, FOR AN EAVESDROPPING WARRANT RENEWAL AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBERS 914-561-8151 AND 914-561-2373 LISTED TO KAY SPANER, NOEL DRIVE, NEWBURGH, NEW YORK

SUPPORTING AFFIDAVIT RENEWAL

- -

STATE OF NEW YORK :
VILLAGE OF GOSHEN : SS.:
COUNTY OF ORANGE :

W. T. KUNOWSKI, being duly sworn, deposes and says:

That he is an Investigator with the Bureau of Criminal Investigation of the New York State Police, Troop F, Middletown, New York.

That in such capacity and as part of his duties he makes the following Affidavit.

That pursuant to an Eavesdropping Order and Warrant made and dated May 15, 1970 by Hon. Abraham Isseks, County Judge of Orange County, directing and permitting the wiretapping of telephone instruments 914-561-8151 and 914-561-2373, listed in the telephone records to KAY SPANER, Noel Drive, Newburgh, New York, the following pertinent information was obtained relavent to the commission and continuing commission of the crimes of promoting gambling in the first degree (Section 225.10); possession of gambling records in the first degree (Section 225.20) and criminal conspiracy in the third and second degree (Section 105.05 and 105.10).

That pursuant to the aforesaid Order and Warrant, the above referred telephone instruments were monitored and on June 23, 24, 25, 26, 27, 29, 30, July 1, 2, 3, 6, 7, 8, 9, 10, 12, 14, and 15, 1970 subjects were overheard placing bets on horse races and numbers and during the same periods of time subjects were also overheard discussing the workings and operations of the book-making and policy operations.

That I repeat and re-allege, as though fully set forth herein, all the information set forth in my Affidavit dated and sworn to on the 13th day of May, 1970 and that the investigation herein is continuing and that disclosure would jeopordize the investigation.

Your deponent respectfully urges upon this Court that it is imperative to continue the investigation and that an additional Renewal be granted. There are exigent circumstances which continue to exist requiring the preservation of secrecy as set forth in the original papers herein. This, dur to the fact that disclosure at this time would jeopordize and make futile any continuing investigation.

A J Kaminsky

Sworn to before me this 16
day of July, 1970.

Blake Muthig

BLAKE MUTHIG - NOTARY PUBLIC
ORANGE COUNTY, NEW YORK
COMM. EXPIRES MAR. 30, 1971

AFFIDAVIT OF ANGELO J. INGRASSIA IN SUPPORT OF EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK

COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO J. INGRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY, FOR AN EAVESDROPPING WARRANT AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBER 914-561-4588 LISTED TO ALAN HANDLER, MT. AIRY ROAD, NEWBURGH, NEW YORK.

APPLICATION.

STATE OF NEW YORK:
VILLAGE OF GOSHEN: ss.:
COUNTY OF ORANGE ;

ANGELO J. INGRASSIA, being duly sworn, deposes and says:

That he is the District Attorney of the County of Orange, State of New York; that pursuant to Section 816 et. seq. of the Code of Criminal Procedure he hereby makes application that an eavesdropping warrant be issued to permit him or Senior Investigator Thomas J. Butler, a member of the New York State Police, expressly designated by me for that purpose, to wiretap telephone number 914-561-4588 listed in the records of the New York Telephone Company to ALAN HANDLER, Mt. Airy Road, Newburgh, New York, who resides there and who uses this telephone. Also that said warrant authorize such wiretapping for a period of thirty (30) days beginning June 12th, 1970, or as soon thereafter as it is reasonably practicable and that such wiretapping be conducted at any and all times of the day or night during such period.

That the following STATEMENT OF FACTS upon which this application is made be based upon information and belief and upon the affidavit of Investigator W. T. Kunowski attached hereto as follows:

1. That one ALAN HANDLER who lives upon the premises located on Mt. Airy Road, Newburgh, New York, where the aforementioned telephone is located, has committed and is now committing crimes in violation of the Penal Law of the State of New York, to wit, Promoting Gambling in the First Degree (225.10); Promoting Gambling in the Second Degree (225.05) and Possession of Gambling Records in the First Degree (225.20); and Criminal Conspiracy in the Third and Fourth Degree (105.05 and 105.00).

2. That ALAN HANDLER resides at and frequents the premises at Mt. Airy Road, Newburgh, New York.

3. That an informant of known reliability, as more fully appears in the annexed affidavit of W. T. Kunowski, has disclosed that the said ALAN HANDLER is engaged in accepting bets on horse races, sports events and policy numbers over telephone number 914-561-4588 and that he is engaged in a bookmaking operation. That a toll analysis of telephone number 914-561-4588 reveals that calls were made to telephone number 914-688-9219 listed to PHILIP POLITI, Mt. Vernon, New York and telephone number 914-831-3055 listed to MARY GERENTINE, Beacon, New York. Your deponent has been informed and advised that the said PHILIP POLITI has previously been arrested in Yonkers, New York for promoting gambling on or about July 22, 1969 and further that PHILIP POLITI is engaged in bookmaking operations.

Further, that conversations seized under court order during previous gambling investigations in October 1969, revealed that telephone calls were being made to RICHARD GERENTINE, Beacon, New York at telephone number 914-831-3055 by AUGUST SMREK and ALAN HANDLER during which calls bets on horse races and policy numbers were received from RICHARD GERENTINE. The aforesaid AUGUST SMREK was arrested on November 7, 1969 for promoting gambling and possession of gambling records.

4. That surveillance of the said ALAN HANDLER reveals that he has met with one MARIE SMREK who has previously been arrested and convicted of the crime of Keeping A Place For The Game of Policy. Surveillance of the said ALAN HANDLER has also revealed that he has made personal calls to various locations known and suspected of conducting gambling operations.

5. That the aforesaid informant of known reliability, as hereinabove set forth, has also advised the police officials that he has recently placed bets on horse races with the aforesaid ALAN HANDLER.

6. That the type of conversation sought to be heard over telephone number 914-561-4588 relates to bets and wagers which are telephoned into the premises at Mt. Airy Road, Newburgh, New York and which are telephoned out of said premises and further surveillance and/or similar type of investigative techniques will not produce the evidence desired and continued surveillance to obtain further evidence is extremely difficult as it would require police officers to remain for long periods of time in an exposed position and as the individuals involved in the gambling operation are professionals and they would undoubtedly observe the surveillance and cease or move their operation.

7. That the conversations mentioned are not privileged under any statute or Constitutional provision except against Eavesdropping without a proper Eavesdropping Warrant.

8. That it cannot be determined with any degree of certainty when the conversations of the type sought to be overheard will occur and that no one such conversation will constitute the evidence sought.

9. That the said ALAN HANDLER and others have committed and are committing crimes against the Penal Law of the State of New York as hereinabove set forth, and are also conspiring to commit these various crimes.

10. That no previous application has been made for an Eavesdropping Warrant with respect to telephone number 914-561-4588, or the said ALAN HANDLER.

11. Your deponent further states that notice to the subject ALAN HANDLER should be waived inasmuch as there are exigent circumstances in existence due to the fact that any knowledge by ALAN HANDLER of the fact that he is under surveillance might jeopardize the instant investigation.

ANGELO J. INGRASSIA

Sworn to before me this
10th day of June, 1970.

Abraham Gerber
Orange County Judge

AFFIDAVIT OF W.T. KUNOWSKI IN SUPPORT OF EAVESDROPPING WARRANT
STATE OF NEW YORK : RENEWAL
COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO ZERBASSIN, DISTRICT ATTORNEY OF ORANGE COUNTY, NEW YORK, AT GOSHEN, NEW YORK, FOR AN EAVESDROPPING WARRANT ISSUED AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBER 914-561-4583 LISTED TO ALAN HANDLER, MT. ARY ROAD, WARWICK NEW YORK. SUPPORTING AFFIDAVIT RENEWAL

STATE OF NEW YORK :
VILLAGE OF GOSHEN : SS.:
COUNTY OF ORANGE :

W. T. KUNOWSKI, being duly sworn, deposes and says:

That he is an Investigator with the Bureau of Criminal Investigation of the New York State Police, Troop F, Middletown, New York.

That in such capacity and as part of his duties he makes the following affidavit.

That pursuant to an eavesdropping order and warrant made and dated June 10, 1970 by Hon. ABRAHAM ISSEKS, County Judge of Orange County, directing and permitting the wiretapping of telephone instrument 914-561-4583, listed in the telephone records to ALAN HANDLER, Mt. Airy Road, the following pertinent information was obtained relevant to the commission and continuing commission of the crimes of Promoting Gambling in the First Degree (Section 225.10), Possession of Gambling Records in the First Degree (Section 225.20) and Criminal Conspiracy in the Third and Second Degree (Sections 105.05, and 105.10).

That pursuant to the aforesaid order and warrant, the above referred telephone instrument was monitored and on June 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30, and July 2, 3, 6, 7, and 8, 1970 [illegible] and calling

out and receiving the winning policy number for those days and on the same dates subjects were overheard calling out to two individuals giving them the winning policy number for those days. On dates of June 19th to the 22nd, 25th to the 26th, June 30th, to July 1, July 2, to July 4th, and July 4th to July 6th 1970, subjects were also overheard discussing their winning and loosing as well as the operation of their bookmaking and policy operation.

That I repeat and re-allege, as though fully set forth herein, all the information set forth in my affidavit dated and sworn to on the 8th day of June, 1970, and that the investigation herein is continuing and that disclosure would jeopardize the investigation. Your deponent respectfully urges upon this Court that it is imperative to continue the investigation and that a revewal be granted. There are exigent circumstances which continue to exist requiring the preservation of secrecy as set forth in the original papers herein. This is duet to the fact that disclosure at this time would jeopardize and make futile any continuing investigation.

W J Kennedy

Sworn to before me this
10th day of July 1970.
Donald P. Lutz

Notary Public New York State
Orange Co. Comm. Expires 3-31 72

AFFIDAVIT OF ANGELO J. INGRASSIA IN SUPPORT OF EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO INGRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY NEW YORK AT GOSHEN, NEW YORK FOR AN EAVESDROPPING WARRANT RENEWAL AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBER 914-561-4500 LISTED TO ALAN HANDLER, MT. AIRY ROAD, NEWBURGH, NEW YORK.

APPLICATION RENEWAL

STATE OF NEW YORK :
VILLAGE OF GOSHEN : SS.:
COUNTY OF ORANGE :

ANGELO J. INGRASSIA, being duly sworn, deposes and says:

That he is the District Attorney of Orange County, New York and hereby makes application that an eavesdropping warrant renewal be issued to permit him or Investigator W. T. KUNOWSKI or Senior Investigator T. J. BUTLER, members of the New York State Police, expressly designated by me for the purpose of continuing a wiretap on telephone number 914-561-4500 listed in the records of the New York Telephone Company for ALAN HANDLER, Mt. Airy Road, Newburgh, New York. Also that said warrant shall authorize such wiretapping for a period of thirty (30) days beginning June 14, 1970 or as soon thereafter as is reasonably practicable, and that such wiretapping be conducted at any and all times of the day or the night during such period.

That the following statement of Facts upon which this application is made be based upon information and belief and upon the affidavit of W. T. KUNOWSKI, attached hereto, dated July 10, 1970 as follows:

1. That ALAN HANDLER, acting in concert with others, has

committed and in committing offenses against the Penal Law of the State of New York, as alleged in the original application herein.

2. That pursuant to the eavesdropping warrant dated June 10, 1970 the following information was overheard:

a. From a period commencing on or about June 15, 1970 through July 8, 1970, conversations were heard over the telephone in which the winning policy number was obtained and disseminated to others, and that conversations were overheard regarding wins and losses as well as the operation of the bookmaking and policy operations.

3. The specific locations from where the calls were made for the subject premises or the subject phoned have not been established and normal investigative procedures have not developed evidence thereof.

4. The conversations mentioned are not privileged under any statute or constitutional provision except against Eavesdropping without a property Eavesdropping warrant.

5. That it cannot be determined with any degree of certainty when the conversations will constitute the evidence sought.

6. The only previous application which was made for an eavesdropping warrant with respect to telephone number 914-561-4588, is the aforesaid original eavesdropping warrant dated June 10, 1970.

7. That the investigation herein is still continuing and disclosure of the fact that an eavesdropping warrant has been issued would jeopardize and terminate the investigation herein.

therefore your deponent requests that the notice required to be given pursuant to Section 823, of the Code of Criminal Procedure should be waived since there are in existence exigent circumstances as aforesaid.

ANGELO J. MERASSIA

Sworn to before me this
10th day of July, 1970.

HENRY P. BULL
Notary Public in the State of New York
Orange County
Certificate filed in Sullivan County, N.Y.
Commission Expires March 30, 1972

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AFFIDAVIT OF W.T. KUNOWSKI IN SUPPORT OF EAVESDROPPING WARRANT

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO INGRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY FOR AN EAVESDROPPING WARRANT AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBER 914-561-4508 LISTED TO ALAN HANDLER, MT. AIRY ROAD, NEWBURGH, NEW YORK

SUPPORTING AFFADAVIT

STATE OF NEW YORK :
COUNTY OF ORANGE : SS.:

W. T. KUNOWSKI, being duly sworn, deposes and says: That he is an investigator of the Bureau of Criminal Investigation of the New York State Police, Troop F, Middletown, New York.

That one, ALAN HANDLER is believed to be committing crimes against the Penal Law of the State of New York, to wit: Promoting Gambling in the 1st Degree (PL 225.10) Promoting Gambling in the 2nd Degree (PL 225.05) Possession of Gambling Records 1st Degree (PL 225.20) Possession of Gambling Records 2nd Degree (PL 225.15) and Criminal Conspiracy in the 3rd Degree and 4th Degree (PL 105.05 and 105.00) previously arrested 1/31/69 City of Newburgh for Possession Gambling Records 2nd Degree.

That such belief is based upon the following facts which are of his own personal knowledge or which have been communicated to him in his capacity of an Investigator of the Bureau of Criminal Investigation through regular police and intelligence communications as follows:

1. That an informant of known reliability whose identity cannot be disclosed, who has furnished information in the past that has resulted in the arrest of AUGUST SINNA, DOMENIC MINICUCCI, and LOUIS VISCONTI on 11/7/69 for Promoting Gambling and Possession of Gambling Records and their subsequent convictions on

5/7/70 of Gambling Violations, has advised that he recently made bets on horse races with ALAN HANDLER on Broadway, Newburgh, New York.

2. That records of the New York Telephone Company reveal telephone 914-561-4588 listed to ALAN HANDLER, Mt. Airy Road, Newburgh, New York installed in January 1970.

3. That toll analysis of telephone 914-561-4588 reveals several calls during March 1970 to 914-688-9219 and 914-831-3055.

4. That records of the New York Telephone Company reveal telephone 914-668-9219 listed to PHILIP POLITI, 60 Dogwood Place, Mt. Vernon, New York.

5. That records of the New York Telephone Company reveal telephone 914-831-3055 listed to MARY GERENTINE, 78 Catherine Street, Beacon, New York.

6. That it has been revealed through normal police channels that PHILIP POLITI, Mt. Vernon, New York has previously been arrested at Yonkers, New York for Promoting Gambling 1st Degree, and Possession Gambling Records 1st Degree on 7/22/69. It's further known through other police sources that PHILIP POLITI's presently engaged in a bookmaking operation.

7. That conversations seized under court order during a previous gambling investigation during October 1969 revealed calls being made to RICHARD GERENTINE, Beacon, New York at telephone 914-831-3055 by AUGUST SINNK and ALAN HANDLER from telephone 914-561-0255 during which bets on horse races and policy numbers were received from RICHARD GERENTINE.

8. That records of New York Telephone Company reveal telephone 914-561-0255 listed to AUGUST SINNK, Forge Hill Gardens, Newburgh, New York who has previously been arrested 11/7/69 for Promoting Gambling, Possession Gambling Records and convicted 5/7/70 of Gambling Violations.

9. That surveillances conducted periodically at the ALAN HANDLER residence indicates he is present at the location on an occasional basis.

10. That surveillances conducted at Newburgh, New York reveals ALAN HANDLER to meet with MARIE SHREK on Mill Street, Newburgh, New York and on William Street, Newburgh, New York on 4/23/70, 4/30/70 and 5/6/70.

11. That it has been revealed through normal police channels that MARIE SHREK has previously been arrested for Keeping Place for Game of Policy on 11/30/62 and convicted the same date.

12. That surveillances conducted at Newburgh, New York reveal ALAN HANDLER to meet with PHILIP POLITI on 4/22/70, 4/23/70 and 4/28/70.

13. That surveillances conducted at Newburgh, New York on 4/23/70, 4/28/70 and 5/1/70 reveal ALAN HANDLER operating 1970 blue Oldsmobile 1664GO, making brief stops at Ralph's Barber Shop, Broadway, Moses Store, William Street, and Knotty Pine Barber Shop, Liberty Street. It is further known through other police sources that bookmaking operations are being conducted at Ralph's Barber Shop, Moses Store and Knotty Pine Barber Shop.

14. That this investigation indicates ALAN HANDLER is presently involved in a Bookmaking Operation with PHILIP POLITI, MARIE SHREK and other persons whom are unknown and that normal investigative procedures appear too dangerous to employ as ordinary investigative procedures in this case would jeopardize the investigation. This is evident as ALAN HANDLER is observant of his surroundings when surveilled and it is felt continuing surveillance would be noticed by ALAN HANDLER.

15. Further that normal investigative procedures thus far have not obtained complete information as to specific locations, the times when and the persons with or in respect to whom the crimes aforementioned are being, have been or will be committed and that further use of normal investigative procedures would be unsuccessful if attempted.

16. That conversations mentioned are not privileged under any statute or constitutional provision except against eavesdropping without an eavesdropping warrant.

17. That it cannot be determined with any degree of centainty when the conversations or discussions of the type sought to be overheard will occur and that no one such conversation or discussion will constitute the evidence sought.

18. That the overhearing and recording by wiretapping of conversations and discussions of ALAN HANDLER and others who consort with him is necessary in order to obtain sufficient evidence for the detection, apprehension and conviction of the said ALAN HANDLER and other persons engaged with him in committing crimes herein before described.

K J Kimmerle

Subscribed and sworn to before
me this 22 day of June 1970.

[illegible]

EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK
COUNTY COURT : COUNTY OF ORANGE

IN THE MATTER OF THE APPLICATION OF ANGELO J. INGRASSIA, DISTRICT ATTORNEY OF ORANGE COUNTY, NEW YORK AT GOSHEN, NEW YORK FOR AN EAVESDROPPING WARRANT RENEWAL AUTHORIZING THE WIRETAPPING OF TELEPHONE NUMBER 914-561-4588 LISTED TO ALAN HANDLER, MT. AIRY ROAD, NEWBURGH, NEW YORK.

EAVESDROPPING WARRANT RENEWAL

STATE OF NEW YORK:
VILLAGE OF GOSHEN: SS.:
COUNTY OF ORANGE:

In the Name of the People of the State of New York:

To ANGELO J. INGRASSIA, District Attorney of the County of Orange, at Goshen, New York:

On reading the application of ANGELO J. INGRASSIA, District Attorney, sworn to on the 10th day of July, 1970, and the affidavit of W. T. KUNOWSKI, Investigator of the New York State Police, sworn to on the 10th day of July, 1970, in support of such application, and it appearing from the statement of facts therein contained in compliance with Sections 814 et. seq. of the Code of Criminal Procedure, establishing that there is reasonable cause to believe that there has been, is being and is about to be committed the following crimes against the Penal Law of the State of New York, to wit: Promoting Gambling (Section 225.10); Possessin of Gambling Records in the First Degree (Section 225.20) and Criminal Conspiracy in the Third and Second Degree (Sections 105.05 and 105.10), and it appearing that the continued wiretapping and recording of the conversations and discussions of ALAN HANDLER, Mt. Airy Road, Newburgh, New York, under telephone number 914-561-4588 and the conversations of others acting in consort with him using said premises will constitute evidence of such crimes or that such conversations

and discussions will aid in the apprehension of the perpetrators of such crimes, and it appearing that such conversations may be obtained by the wiretapping and recording of the conversations on telephone number 914-561-4588, listed in the records of the New York Telephone Company to ALAN HANDLER, and it further appearing that normal investigative procedures have been tried and failed to obtain the said evidence.

1. You, or any other person or persons expressly designated by you for that purpose, are therefore, commanded to obtain by wiretapping, conversations and discussions pertinent to the said crimes and the conspiracy to commit the said crimes, and

2. Are further commanded that such mechanical overhearing shall take effect on July 14, 1970, or as soon thereafter as is reasonably practicable and that such eavesdropping shall not cease after anyone or more of the above described conversations shall have been overheard, but shall cease at the close of the 30th calendar day after the date of the actual installation, whichever last occurs and that such eavesdropping may be conducted at all hours of the day and night.

3. You, or any other person or persons designated by you for the purpose, are further commanded and expressly authorized to overhear and intercept all conversations on telephone number 914-561-4588.

you, or any other persons expressly designated by you for the purpose, are further commanded that this warrant shall be executed as soon as may be practical and that within fourteen (14) days after the termination of this warrant or the last renewal of it, you or the person or persons expressly designated by you to execute this warrant, shall make a return

to me in accordance with the provisions of said Title III, Part 6, of the Code of Criminal Procedure. Notice to subject ALAN HANDLER is hereby waived since there are in existence exigent circumstances.

Orange County Judge

Dated: This 15 day of July, 1970.

TRANSCRIPT OF TELEPHONE CONVERSATION BETWEEN TONY POLITI AND ALLEN HANDLER BETWEEN 2:30 P.M. JUNE 15, 1970 AND 11:30 A.M. JUNE 16, 1970

TELEPHONE CONVERSATION BETWEEN TONY POLITI and ALLEN HANDLER TAPED BETWEEN 2:30 P.M. - 6/15/70 and 11:30 A.M. - 6/16/70.

(PHONE RINGING)

TONY: Hello.

ALLEN: How ya doin, pal?

TONY: Good.

ALLEN: Listen, could you come up tomorrow morning?

TONY: Geez; impossible.

ALLEN: Impossible?

TONY: Impossible for tomorrow morning anyway.

ALLEN: Huh?

TONY: I have to meet Vinny at 9:15 in White Plains.

ALLEN: Ya?

TONY: I know I'll be tied up there for at least 12:00 o'clock.

ALLEN: Ya? Where are ya now?

TONY; Way the hell down near the track.

ALLEN: Ya?

TONY: What happened?

ALLEN: Huh?

TONY: What's the matter?

ALLEN: Ah, we got something here that's fuckin dynamite.

TONY: In reference to what; the business?

ALLEN: Ya.

TONY: What is it; bad? Good?

ALLEN: Bad.

TONY: For what reason is it bad?

ALLEN: Well, it's-- I got to tell you. I can't-- you know, what I mean?

TONY: Well, don't get me wrong. I understand, you know

what I mean? Affecting you; affecting the business; or--

ALLEN: Ya; affecting me and the business.

TONY: From what end?

ALLEN: From the old sick guy, you know, the blind guy.

TONY: Ya.

ALLEN: And Father Devine.

TONY: How could that affect you?

ALLEN: You want me to go to a booth, I'll tell you.

TONY: Alright. Call me back. Don't get me wrong. You're talking about the blind guy and the shine?

ALLEN: Ya.

TONY: What the hell do they got to do with youze two?

ALLEN: I'll tell you if you want me to.

TONY: Alright, go ahead. What is it?

ALLEN: On the phone?

TONY: Ya. Fuck it.

ALLEN: There's this kid in town; right?

TONY: Ya.

ALLEN: He goes to this guy that used to be with me. Worked with me real close; right?

TONY: Ya.

ALLEN: But he ain't no longer with me.

TONY: Uhm hum.

ALLEN: Remember the time we went to the store-- The XX store; the big kid with the beard?

TONY: Ya.

ALLEN: Him. You know?

TONY: Uhm.

ALLEN: He goes to this store; you know?

TONY: Uhm hum.

ALLEN: (Continuing) and he tells them; he says, "Look",

ALLEN: You follow me?

TONY: Ya.

ALLEN: (Continuing) that "They want this guy", they said.

TONY: Huh?

ALLEN: They want this guy-- Hello.

TONY: Ya, I'm here. These fuckin kids are playing this machine. Go ahead.

ALLEN: They want this guy to-- ah-- you know-- They want to give him money for him to give information on the fuckin business, you know; stocks and--

TONY: Who is the guy runnin around; you know? Who's runnin around?

ALLEN: Ya. I mean, I know who he is. I don't know him personally.

TONY: You know where to locate him?

ALLEN: Ya.

TONY: Who's tellin him to go around; the blind guy?

ALLEN: Ya. See, I want you to talk to this guy he approaches. He'll tell you the whole story on me. Follow me? The fuckin thing is very deep and he threatened this guy too.

TONY: First of all, I don't think it's anything to be alarmed about. Second of all, whatever it is, it's nothing that we can't solve. I mean, he's not going to take your work away from you whatever--

ALLEN: Oh, he's going to try.

TONY: He's going to try, he's going to wind up getting hurt. Simple as that. I mean, don't get me wrong. I'm not trying to tell you not to worry. You're supposed to worry, but first of all, it's like me going there tomorrow and saying to these people-- and saying, "Look, I got the power. I got the connections. I got the stuff". He'll be gone [illegible] as a matter of fact, I--

TELEPHONE OPERATOR: Please signal when through.

TONY: Yes, operator. (Continuing) and if you could set up an appointment for tomorrow, I'll be there, 4:30.

ALLEN: You mean with the guy I talked to?

TONY: Yes, with him, and I'll go see the blind guy too and I'll tell the small guy I want to see him too-- the little guy. That's where he's coming into the picture too now. In other words, this guy is going around and, you know, he's looking to take your stops.

ALLEN: Well, he ain't going around and-- See, he's trying to get this guy to skin all the information he can out of him.

TONY: Is this guy going to come forward and spill it out like he told you?

ALLEN: I'm sure he is. He's supposed to meet me eleven o'clock tomorrow morning.

TONY: The guy that just told you the story?

ALLEN: Ya.

TONY: Now, you have him-- I can't-- Believe me, I'll drop everything and run. You have him there tomorrow at 4:30. You make arrangements tomorrow morning.

ALLEN: I want to. Then what about the work? What do I do, just drop it?

TONY: Then make it for 5:30.

ALLEN: Alright.

TONY: I'll be there 5:30. You have him and we go see the guy-- the blind guy, and we go see this guy and you have Art there.

ALLEN: What good is that going to do?

TONY: I just want him there. He's going to do something for his fuckin keep. Even if he's going to be dead wood, he's going to be there.

ALLEN: What could he do?

TONY: It's not what he could do. In other words, if we have to go see the blind guy, he knows him better than me; you understand me? And he could tell the guy in the room and tell him the facts of life, who we're dealing with. I can't go there and tell the guy who I am. Understand what I mean?

ALLEN: Uhm.

TONY: If I walked up to that blind guy, he doesn't know me from a hole in the ground, but I could go there and tell him what he's up against. This is true. You know what I mean? And the only way to stop it is tomorrow. How the hell else could you handle it?

ALLEN: Well, this guy made a few statements that personally I got to straighten out. Like Marie's a fuckin whore.

TONY: Who said this?

ALLEN: This fuckin kid to this other kid; you know? You know, and some things--

TONY: Let's grab this fuckin guy tomorrow ans top all the preliminaries. We grab the guy tomorrow. You know where this guy lives?

ALLEN: I know where his place of business is.

TONY: This guy here that's makin these remarks?

ALLEN: Ya.

TONY: Do you know where his place of business is?

ALLEN: Ya.

TONY: You know he's there at 5:30?

ALLEN: 5:30. He should be. He'll be there at five o'clock anyway.

TONY: The guy that told you all the stuff is going to be there with us?

ALLEN: Ya.

TONY: You have him there, you get the little guy there and I'll be there with you, and we straighten it out tomorrow. We grab him and we go see the blind guy together. It's the only way to do it. And then this guy deserves a beaten for making that remark. Unless you got another way you want to do it.

ALLEN: I'm going to do something. I'm--

TONY: I don't mean it that way. Definitely, I don't imagine you--

ALLEN: I'll tell you one fuckin thing. I'm tired of all the fuckin shit with the cock suckers up here and I ain't puttin up with it no more.

TONY: I can't get up there in the morning, believe me; it's impossible; you know, I would be there with no fuckin problem.

ALLEN: I'm tired of talkin with these blind mother fuckers; these nigher mother fuckers, because this is a lot of talkin and no fuckin action.

TONY: We grab you first. You tell the little guy the story--

ALLEN: What the little guy? I don't got to tell him no fuckin story. I just tell him to go there. I'm not tellin him no stories, that little mother fucker.

TONY: You tell the little guy to meet us at 5:30. I'll be there before. You understand what I mean?

ALLEN: I'll be there.

TONY: You bring the guy. I tell the guy to meet me at such and such a place where I tell your guy to meet me, I'll have the other guy there too; right?

ALLEN: He'll tell you the fuckin story and I'll tell the little guy to hang around by his mother--

TONY: We go to pick him up. Now could we get the guy tomorrow at 5:30?

ALLEN: I don't know. Who the fuck knows.

TONY: Do you know where he lives?

ALLEN: Ya.

TONY: In other words, you go right to his house.

ALLEN: Ya.

TONY: Now, how could we get this guy that's goin around that approached him with this story?

ALLEN: I don't know if I can get him to fight dirty or not; maybe.

TONY: Can we go to his house?

ALLEN: I don't know where he lives, but we could probably find it.

TONY: You don't know this guy at all though?

ALLEN: I know him by sight.

TONY: And is he from there-- does he live up there?

ALLEN: Ya, he's a fuckin, two-bit mother fuckin whore, cock sucker.

TONY: Very good. Tomorrow when I come, we; like I said, you have the little guy, your man first and the three of us will ride together; right?

ALLEN: Uhm.

TONY: And as a matter of fact, we'll go to see the blind guy first and if he can't find the other guy;- We'll go to the blind guy and let the blind guy summons this guy. In other words, we try to wrap it up tomorrow so this fuckin thing don't get out of wack. Unless you got another way you want to do it-- I don't know.

ALLEN: Well, maybe I'm going to go see this fuckin guy myself tomorrow, that's all. Fuck it. I ain't fuckin around-- see this guy, see that guy.

TONY: How else could you handle this?

ALLEN: Huh?

TONY: How else can you do it?

ALLEN: I don't know. I can only go so far and I've gone as far as I can go.

TONY: Okay, granted. Beautiful. How else could you do it? How else you gonna handle it? You want to find out if the blind guy has anything to do with it. Do you know, or are you going by just what you heard said?

ALLEN: I'm going by what this guy said and if you go to the blind guy, he's gonna deny it.

TONY: Why would he deny it?

ALLEN: What do you mean, why would he deny it? You get these two guys in the room, he's going to deny it.

TONY: He must have told the guy to do it.

ALLEN: The best thing to do is get both of them in a room and then slap both ofthem in the face if it comes down to that.

TONY: Well, he must have said something to make this guy go around like this.

ALLEN: That's right. So we got to grab him too then; no?

TONY: I wish you would wait for me tomorrow and do it all together. I mean, do what you want to do, but what I'm saying, the only way to get to the bottom of anything-- you just can't talk to one party, it does no good. In other words, if I tell you to do something then you go approach somebody, it's got to eventually come back to me because I'm the guy that sent you.

ALLEN: Ya.

TONY: Understand what I mean?

ALLEN: Ya.

TONY: Now, if the blind guy sent him, we gotta get both of them and the blind guy because by speaking to this guy or slapping this guy in the puss ain't going to satisfy our beef with the blind guy. Maybe this is the time we came to a head with this blind mother fucker.

ALLEN: I don't know what to do. I'm lost for fucking words.

TONY: In other words, this blind guy sent this guy out; right?

ALLEN: He must have. This guy didn't dream this up by himself. He's a fuckin punk.

TONY: Alright, so we got to see the punk first; right?

ALLEN: Ya.

TONY: But we still gotta see the blind guy, don't we?

ALLEN: Ya.

TONY: (Continuing) to tell him the facts of life. Isn't that what we have to do?

ALLEN: Ya.

TONY: So we got to see both of them. You just don't see one.

ALLEN: This kid that he told; see--

TONY: Yes.

ALLEN: (Continuing) he's supposed to give him money tomorrow.

TONY: What-- He's supposed to give the kid money tomorrow?

ALLEN: Ya. To give him information about me, the stock, the business, and all the fuckin bullshit that goes with it; see?

TONY: Ya.

ALLEN: So, you know, so I don't want to blow this fuckin thing now.

TONY: How are we going to blow it?

ALLEN: Well, in between tomorrow, I mean. See, because this kid threatened this friend of mine, he said, "Look, if you go back and tell him, I'm going to hurt you. I'm going to hurt your wife. I'm going to hurt your kid".

TONY: He told this to the kid?

ALLEN: Ya.

TONY: Who isthis guy; King Kong?

ALLEN: Ya. You know what I mean, "Marie's a fuckin whore. She'll go which ever way the fuckin business goes. If the business goes back to them guys, she'll go that way too". You know, then all this fuckin shit. Now this fuckin guy, you know, I know this fucking guy all my life and we did a lot of things together and he's threatening him and saying this about somebody else, I mean, I can only go so far.

TONY: Ya.

ALLEN: You follow me?

TONY: Ya. You're talking about the guy that told you that?

ALLEN: Ya..

TONY: In other words, he's reliable?

ALLEN: He's reliable or else he wouldn't come back to me because he don't know nothing anyway. He fills his ears with bullshit. In other words, XX-1 is his father.

TONY: I know, I met the guy with the beard.

ALLEN: Ya, a big fuckin cock sucker; you follow me?

TONY: Ya.

ALLEN: Now, he wanted to nail him right then and there; you follow me?

TONY: Well look, why don't we do this here. The three olds will go see this guy tomorrow. You, me and the guy with the beard.

ALLEN: Right.

TONY: (Continuing). and then after we finish with him, we go see the blind guy without him and we'll bring him up there too; okay? You want to do that?

ALLEN: Ya.

TONY: I'll meet you where ever you say. Where ever you tell the guy tomorrow morning, I'll be there.

ALLEN: Fine.

TONY: Alright, you understand me?

ALLEN: Ya.

TONY: And just see your man with the beard tomorrow and tell him to sit tight and tell him to meet you tomorrow at a certain place at 5:00. As a matter of fact, if we have to-- Well, I'll explain when I see you. We'll do something ourselves.

ALLEN: Okay.

TONY: Alright. I know how you feel, but after that I got to go see the blind guy.

ALLEN: Right.

TONY: If that's where it came from, that's where the problem is going to be.

ALLEN: Right.

TONY: If this is that guy's way of thinking, then he's got to be straightened out.

ALLEN: That's right. And I'll tell the other guy-- I'll tell the little guy to hang around and wait for me because it's easier for him to get in the door of the blind guy.

TONY: You tell the little guy to meet me at 4:30. You understand what I mean?

ALLEN: Ya.

TONY: I'll straighten him out before I see you.

ALLEN: Ya.

TONY: And I'll tell him he better get on the ball and he better, you know, see what he's going to do because this is going to stop. If this is what we gotta go through, understand what I mean? In other words, I'll see him before I see you because we don't need him when we go to see the blind guy.

ALLEN: Alright.

TONY: And if he wants to go up there and hold his hand till we get there, he can do it.

ALLEN: Ya.

TONY: Alright?

ALLEN: Ya.

TONY: How does that sound?

ALLEN: It sounds alright, other than the fact with the fuckin little guy. Leave him out.

TONY: Pardon me?

ALLEN: I would leave the little guy out of it because maybe something fuckin funny might happen and I don't want--

TONY: Ya, but you see what I mean, I don't want this guy to get away. You know what I mean? In other words, he's got to protect something.

ALLEN: Ya. You're protected. He'll go up to the blind guy with you and me to get us in the door or else they ain't gonna let us in the door.

TONY: He ain't gonna let us in the door?

ALLEN: No.

TONY: Well, he ain't; huh?

ALLEN: No.

TONY: Well look, do this here then. Tell the little guy to meet me at 4:30. I don't want him-- In other words, he won't come with us.

ALLEN: Ya.

TONY: I'm just gonna tell him what's goin on. If we have any problems; If he can't handle these picayune little things there, that he better take a walk. I know what I want to tell him.

ALLEN: He's going to say, I didn't tell him.

TONY: Who didn't tell him?

ALLEN: I didn't tell him.

TONY: No, I'm going to tell him something. I mean, I know what I gotta do with him. Now, believe me what I tell you.

ALLEN: Uh huh.

TONY: Now, me, you and the guy with the beard and maybe we'll take Phil with us and we'll go to see this other guy.

ALLEN: Uh huh.

TONY: You know what I mean?

ALLEN: Uh huh.

TONY: And then we'll straighten him out and from there we'll throw him in the car and we'll take him up to see the blind guy.

ALLEN: Uh huh.

TONY: That's it. We get it right over with tomorrow.

ALLEN: Uh huh.

TONY: But I don't want to telegraph this.

ALLEN: Uh huh.

TONY: You know what I mean?

ALLEN: Uh huh.

TONY: So tell these guys not to telegraph it because I don't want these guys to be prepared.

ALLEN: Uh huh.

TONY: Okay?

ALLEN: Uh huh.

TONY: Is that agreeable with you?

ALLEN: Ya.

TONY: Okay. We'll do it that way then; right?

ALLEN: Where will you be at 11:30 tomorrow?

TONY: Call me at the race track.

ALLEN: I'll call you at the race track and I'll see you tomorrow, guaranteed. Hold on one second.

(Allen leaves the phone).

ALLEN: Alright. That's what we'll do then.

TONY: I thought somethinghappened.

ALLEN: No, she wants to say something, then she doesn't.

TONY: Tell her, "Don't feel bad".

ALLEN: You tell her yourself.

MARIE SMERK:NOW TALKING ON THE PHONE.

MARIE: He's got such a rotten temper.

TONY: Hello, dear; how are you?

MARIE: Fine. Listen, he was talking about,-- like Art now, I says to him, "Allen, George? is in tne business, so therefore, there is some things you can say and some things you cam't." Now Allen, he jumps to conclusions fast. Now, Art was up the house the other day and he said something, now whether it's, you know, about this or what, I don't know, but he says-- Well, he says,"I got sometning going for me, so I'm just bidding my time, but maybe we'll be picking up all tne plays". Now whether this has a bearing on this or not, I don't know.

TONY: I'm going to find out tomorrow.

MARIE: So, see, I just figured, you know, George was there, and you know, I says to Al, "I don't want to see it-- I want to see it, but I don't want no friction with George, this is the way I make a living".

TONY: No, but he could mean a million things by that, you know what I mean?

MARIE: With his conniving mind? I don't mean it that way.

TONY: See, I'm not worried about-- He's not going to pick up all or nothing, and I don't think he's gonna want to go up against us, believe me when I tell you. Maybe he's trying to work out a deal where he winds up with the colored guy, I don't know. I don't think he's got anything to do with this plot though. I don't think he's that stupid. You know what I mean?

MARIE: Well, scheming against Al, maybe he would be.

TONY: It doesn't make sense, because he made his deal. He's got the best deal of everything. What is he going to accomplish? He can't take anything away from what Al's got. That's the last thing he takes. Whatever he wants is what he got, because that's the best he could ever get and that he made the deal with me he could never get that to the last day he ever lives.

MARIE: Well, maybe he meant to pick up his own; I don't know.

TONY: I'll straighten that out; one, two, three tomorrow.

MARIE: I just listened and I didn't say nothing, you know, then this came up. I thought maybe this guy-- Who the hell knows, because they scheme so much against Al, you don't know what to think any more.

TONY: No, I don't think we got too much of a problem.

MARIE: I know this kid really good that we're talking about and he hasn't got the sense he was born with and I can't understand these people talking to this half I.Q.

TONY: I don't think this is something-- Maybe something schemed up by the blind guy or the colored guy, but I don't believe that Art's got anything to do with it.

MARIE: I hope not. You can never tell.

TONY: You can never tell.

MARIE: No, you can't tell, because I know,-- you know, he's always scheming against Allen.

TONY: I guarantee you he'll get it tomorrow. You see, when you got somebody there, they can't lie.

MARIE: That's true.

TONY: When you got three people in the room, how is one guy going to lie and the other two tell the truth.

MARIE: Well, between the blind one and this onehere, they have lived on lies.

TONY: Yes, but when we confront the three of them together and I start going after the blind guy, I mean the blind guy is going to say, "What are you doing, you're involved in it," I mean, you're not going to sit there and take it.

MARIE: I know. You know how to talk.

TONY: You get three people in the room and if they are in cahoots together and I go after one guy, the one guy is going to look at the guy for help, that's how you bring this thing to a head. That's why I want the little guy there.

MARIE: Well, some of the things that the kid said made sense. A certain accident, you know, but to think they would go to somebody idiotic, don't make sense to me.

TONY: That's what I said, the best thing we get to the bottom of this tomorrow; one, two, three before it goes any further.

MARIE: I know they really think this poor guy's guilty.

TONY: The only thing I want to-- I told Al tonight, what I'd like to have the little guy there cold turkey, go right on him and if he had anything to do with it, then there's going to be a lot of fire works.

MARIE: I don't believe he had. Maybe scheming in his own way-- who the hell knows.

TONY: We'll bring that out too.

MARIE: I tell you, if it's not one thing it's another anymore. Christ, you go nuts.

TONY: Alright, but the best way is-- Put him on for one minute.

MARIE: Ya, okay. Relax.

ALLEN: Hello?

TONY: Ya. I think we got it. We should have the little guy after what she told me.

ALLEN: Isn't that nice?

TONY: Now we're in doubt. We're always going to be in doubt unless he's there.

ALLEN: That's right.

TONY: Because if you got two people; him and the blind guy and the other guy in the room and we go after the other two, they're going to say, "What are you doing, you were involved".

ALLEN: Ya.

TONY: If he's not involved, he's going to come voluntarily and he's going to be there. Now, if he is involved there's going to be more fire works than he ever bargained for, believe me when I tell you.

ALLEN: How does a guy make a statement like that? He's been taking money forfuckin weeks, ain't he?

TONY: Don't get me wrong under any circumstances. See, I don't think he was involved in this.

ALLEN: They never do, but just to make a fuckin statement like that.

TONY: The statement could have been [illegible] two or three ways. It could have been taken for argument sake. Maybe, "Let's make a deal with the shine", I don't know [illegible] blind out tomorrow. I would like to have them there for one reason only,

to satisfy my mind that he's not involved and if I get a chance, I'm going to stop down and bring somebody with me, okay?

ALLEN: Ya.

TONY: Bring the little guy tomorrow. Tell him to be there 4:30. You tell the little guy to meet you at 4:30. If he says, "what's it about?", say, "I don't know what it's about, all I know is the guy says he wants to see you at 4:30".

ALLEN: Right.

TONY: When I come there at 4:30, I get him and I'll meet you where you gotta meet the other guy and tne four of us ride; okay?

ALLEN: Uh hun.

TONY: What else?

ALLEN: That's all.

TONY: And, well the other guy will give you a message tomorrow. I don't want to tell you this over the phone. The other guy will give you a message and tomorrow when he sees you what I want you to do tomorrow.

ALLEN: Uh hun.

TONY: But I definitely will be there 4:30 tomorrow.

ALLEN: Okay.

TONY: Alright. I'm gonna see if I can try and reach this guy with the ring now.

A ALLEN: Okay.

TONY: Alright, I'll see you tomorrow.

ALLEN: Alright. Bye.

TONY: Bye, now.

SUPPLEMENTARY NOTICE OF MOTION TO SUPPRESS 145a

UNITED STATES DISTRICT COURT (Filed March 22, 1973)
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS,

Defendants.

SUPPLEMENTARY NOTICE OF MOTION TO SUPPRESS EVIDENCE

SIR:

PLEASE TAKE NOTICE that upon the annexed affidavit of HERALD PRICE FAHRINGER duly sworn to on the 15th day of March, 1973 and upon the indictment and all other proceedings had herein, the undersigned will move this Court on behalf of the defendant, MICHAEL ROMAN, at a Criminal Term to be held in the Federal Court House in the City of New York, State of New York, the 26th day of March, 1973, or as soon thereafter as counsel can be heard for orders granting the following relief:

I. A hearing to determine the admissibility of certain evidence seized from the defendants and an order suppressing the evidence illegally seized pursuant to Rules 41(f) and 12 of the Federal Rules of Criminal Procedure;

II. An order granting such other and further relief as is just under all the circumstances of this case.

DATED: Buffalo, New York
March 15, 1973

Yours, etc.

HERALD PRICE FAHRINGER, ESQ.
One Niagara Square
Buffalo, New York 14202
(716) 856-8400

Attorney for the Defendant
MICHAEL ROMAN

TO: JOEL FRIEDMAN, ESQ.
Special Attorney
United States Department
of Justice
26 Federal Plaza
New York, New York 10007

AFFIDAVIT OF HERALD PRICE FAHRINGER IN SUPPORT OF MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AFFIDAVIT

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS,

Defendants.

STATE OF NEW YORK)
COUNTY OF ERIE) ss.
CITY OF BUFFALO)

HERALD PRICE FAHRINGER, being duly sworn, deposes and says:

1. He is an attorney duly licensed to practice law in the State of New York. HERALD PRICE FAHRINGER is a member of the law firm of Lipsitz, Green, Fahringer, Roll, Schuller and James with offices at One Niagara Square, Buffalo, New York.

2. Counsel is thoroughly familiar with the facts and circumstances surrounding this case.

3. Counsel previously filed omnibus motions dealing with several aspects of this case. At the time these motions were filed counsel noted, in his moving papers, that certain search warrants, copies of which were given to the defendant, were not accompanied by supporting depositions.

4. Defendant specifically reserved his right to attack the validity of these warrants at such time as he was given copies of the supporting affidavits.

5. Subsequently counsel was given a copy of the affidavit in support of these warrants, and he now attacks their validity herein. (Attached hereto and marked Exhibit "A" is a copy of the supporting affidavit).

6. The warrants in question are issued for: (1) "Jane Doe believed to be Dorothy Plain, 148 Washington Street, Newburgh, New York . . .", issued by the United States District Court, Southern District of New York, Hon. Gerard L. Goettell on August 29, 1972; (2) "the premises located on the south side of Gidney Avenue, Newburgh, New York . . . ", issued by the United States District Court, Southern District of New York. This warrant is unsigned and undated; (3) "a premises known as 15 East View Avenue, Yonkers, New York . . . ", this warrant was also purportedly issued out of the United States District Court for the Southern District of New York and it is also unsigned and undated.

7. Assuming, without in any way conceding, that the original warrants were dated and signed, these warrants are further invalid and any evidence acquired thereby must be suppress

8. The affidavit in support of these warrants was made by Bob C. Reutter, Special Agent of the FBI.

9. Reutter's affidavit states that it is based on information allegedly given by two confidential informants.

Confidential Informant No. 1 has been supplying information for only five months, and Reutter states that his reliability has been corroborated, but not that he has personal knowledge of this corroboration. Similarly, Reutter states that Confidential Informant No. 2 has been supplying information for nearly eighteen months. Here also Reutter does not allege that he has had personal contact with this informant, or that he has personally corroborated the information this informant allegedly supplied in the past.

10. The information attributed to Informant No. 1 is stated to have resulted from conversations with one Hoke Roberts during the past two years and as a result of Informant No. 1's gambling activities. It is clear that the reliability of this information has not been established. There is no indication as to time, date or place that these alleged conversations or gambling activities have occurred.

11. Reutter, states in vague terms, that Informant No. 1 has placed bets in the past five months and that Informant No. 1 "was told by these men" various matters which are occurring in Newburgh, New York. Clearly without knowing when this alleged information was imparted or the source of the information given by "these men" such information cannot be relied upon to establish probable cause.

12. Similarly, the information supplied by Confidential Informant No. 2 merely states that he takes bets to a "house in Yonkers". Even if this statement were true it does not indicate

that the house in Yonkers is located at 15 East View Avenue. Moreover, there is no indication as to when this information was allegedly given nor as to Cuzzo's source of knowledge. Therefore this information is totally unreliable.

13. The observations alleged by Reutter in no way corroborate the information allegedly supplied by the confidential informants, nor do they establish probable cause independently. Beginning with paragraph 12 various observations are discussed. Reutter states, in a conclusory fashion, that on August 4, 1972, a John Doe was observed bringing the policy work from 22 North Perry Street to Newburgh, New York. Nowhere is this statement supported by an allegation of facts and circumstances, nor is it revealed how the agents knew that John Doe was bringing "policy work". Furthermore there is no indication as to where the alleged policy work was taken in Newburgh, New York.

14. Similarly, there is a statement made that John Doe was observed taking the policy work to the Gidney Avenue house but here also there are no facts and circumstances which support a finding that John Doe in fact possessed policy material.

15. In paragraph 13 Reutter states that Beeman Bowman was observed meeting with Alphonse Cuzzo and that thereafter Cuzzo traveled to 15 East View Avenue, Yonkers, New York, but nowhere does Reutter state that Cuzzo possessed gambling material or that there was in fact gambling material at 15 East View Avenue. Similarly on specific dates in August of 1972 the same activity was again observed but here also there is a lack of any

allegation that illegal activity was being conducted.

16. In paragraph 14 observations are detailed on three specific days in August of 1972 when certain people were observed going into the Gidney Avenue house with a package, but nowhere is there an allegation as to the contents of this package or that the people were present for illegal purposes. Also Reutter lists as significant the fact that a Jane Doe went into the Gidney Avenue house and then came out with a large purse. Certainly such activity is completely natural and innocuous. Similarly, in paragraph 14 Reutter states as significant the fact that Cuzzo traveled to 15 East View Avenue but nowhere does he allege that illegal gambling activity was occurring therein.

17. In paragraph 15 it is stated that the FBI raided a policy bank controlled by Michael Roman. There is not sufficien facts or circumstances stated in this paragraph which allow the defendant to attack the validity of these allegations. It is not stated how it was known that this policy bank was controlled by Michael Roman or indeed where it was located.

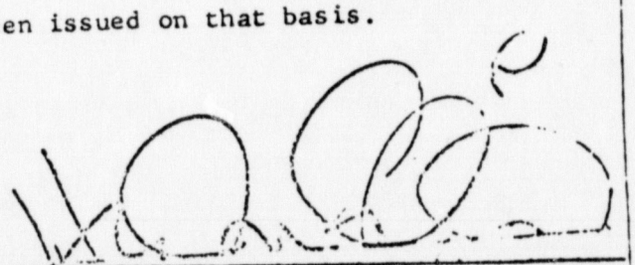
18. Under the last paragraph contained in the affidavit which is entitled "Identification of 'Jane Doe'", Officer Reutter attempts to tie one Dorothy Plair into the gambling allegations that he has made in his affidavit. It is clear that such statements by Officer Reutter in no way connect Dorothy Plair to this gambling activity. The only information which allegedly connects her with the illegal gambling activities is that one Eddie Washington stated that "his girl friend" was a "pick-up" person

and from this Reutter states that the fact Plair's automobile registration indicates the same address as that of Eddie Washington proves that she is his girl friend. Such speculation or mere suspicion in no way supports the issuance of the search warrant for Dorothy Plair.

19. Moreover, when the affidavit is considered in detail, it is obvious that the two main premises are in no way connected, by this affidavit, with illegal gambling activities. The affidavit is totally insufficient in fact or allegation to conclude that illegal activity was occurring on these premises.

WHEREFORE, the search warrants issued for the above-named permises and for the person of Dorothy Plair must be vacated and any and all evidence obtained thereby must be supressed and any and all clues, leads or information obtained as a result of such searches must be held to fatally taint any other aspect of this investigation.

It should be noted at this point that the two search warrants, which are unsigned and undated, deprive the defendant of the knowledge of whether or not these warrants were issued at a time very remote from the facts and circumstances detailed in the affidavit and therefore whether or not the affidavit recited merely stale probable cause. Therefore the defendant reserves his right to further allege that the information given in the affidavit constitutes only stale probable cause and that the warrant should not have been issued on that basis.



Sworn to before me this
15th day of March, 1973.

Marie L. Marco

MARIE L. MARCO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1973

EXHIBIT A - AFFIDAVIT OF BOB C. REUTTER ANNEXED TO FOREGOING AFFIDAVIT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

HOKE ROBERTS,

~~JOHN DOE, A NEGRO MALE, ABOUT 60 YEARS OF AGE, ABOUT 5'9" TALL, ABOUT 140 POUNDS, WHOSE PHOTOGRAPH IS ATTACHED HERETO AS EXHIBIT A,~~

MELVIN ALLAN,

~~JANE DOE, A NEGRO FEMALE, ABOUT 35 YEARS OF AGE, ABOUT 5'6" TALL, ABOUT 120-125 POUNDS, WHO DRIVES A 1968 DARK GREEN PONTIAC TWO DOOR SEDAN, NEW YORK LICENSE FT-4286, REGISTERED TO DOROTHY L. PLAIR, 148 WASHINGTON ST., NEWBURGH, NEW YORK,~~

RAMON M. CASIANO,
BEEMAN BOWMAN, JR,
ALPHONSE CUZZO,
DONNA RUBEO,
MICHAEL ADAM ROMAN, JR.,

Defendants

The person of Dorothy L. Plair,
AND THE PREMISES KNOWN AS THE FIRST FLOOR OF 22 NORTH PERRY STREET, POUGHKEEPSIE, NEW YORK, A TWO STORY RED BRICK RESIDENTIAL DWELLING,

THE PREMESIS LOCATED ON THE SOUTH SIDE OF GIDNEY AVENUE, NEWBURGH, NEW YORK, BETWEEN CHAMBERS STREET (ON THE EAST) AND LANDER STREET (ON THE WEST), IMMEDIATELY TO THE EAST OF A PREMISES KNOWN AS 25 GIDNEY STREET, MORE PARTICULARLY DESCRIBED AS A ONE STORY, ONE FAMILY HOUSE WITH GRAY IMITATION BRICK SIDING, HAVING TWO FRONT WINDOWS COVERED WITH WIRE MESH, ONE FRONT DOOR WITH A SMALL GLASS WINDOW PLACED DIAGONALLY WITHIN A WOODEN FRAME, AND

A PREMISES KNOWN AS 15 EASTVIEW AVENUE, YONKERS, NEW YORK, A TWO STORY WHITE ASBESTOS SHINGLE RESIDENTIAL DWELLING, IMMEDIATELY TO THE SOUTH OF A PREMISES KNOWN AS 19 EASTVIEW AVENUE, YONKERS, N.Y.

AFFIDAVIT

SOUTHERN DISTRICT OF NEW YORK, SS:

BOB C. REUTTER, being duly sworn, deposes and says that he is a Special Agent of the Federal Bureau of Investigation, duly appointed according to law and acting as such, and that he submits this affidavit in support of applications for search

warrants of the above locations and arrests warrants for the above named individuals.

1. I have been a Special Agent of the Federal Bureau of Investigation for the past three years. During that time I have participated in more than 30 separate and distinct gambling investigations involving numerous subjects. As a result I have become familiar with illegal gambling businesses, their methods of operation and the records commonly used by bookmakers and other gamblers.

2. I am in charge of the investigation of the gambling activities of HOKE ROBERTS, ~~JOHN DOE, A NEGRO MALE, ABOUT 60 YEARS OF AGE, ABOUT 5'9" TALL, ABOUT 140 POUNDS, WHOSE PHOTOGRAPH IS ATTACHED HERETO AS EXHIBIT A,~~ MELVIN ALLAN, ~~JANE DOE, A NEGRO FEMALE, ABOUT 35 YEARS OF AGE, ABOUT 5/6" TALL, ABOUT 120-125 POUNDS, WHO DRIVES A 1968 DARK GREEN PONTIAC TWO DOOR SEDAN, NEW YORK LICENSE FT-4266, REGISTERED TO DOROTHY L. PLAIR, 148 WASHINGTON STREET, NEWBURGH, NEW YORK~~, RAMON M. CASIANO, BEEMAN ROMAN, the person of Dorothy L. Plair JR., ALPHONSE CUZZO, DONNA RUBEO, MICHAEL ADAM ROMAN, JR., AND/ THE PREMISES KNOWN AS THE FIRST FLOOR OF 22 NORTH PERRY STREET, POUGHKEEPSIE, NEW YORK, A TWO STORY RED BRICK RESIDENTIAL DWELLING, THE PREMISES LOCATED ON THE SOUTH SIDE OF CIDNEY AVENUE, NEWBURGH, NEW YORK, BETWEEN CHAMBERS STREET (ON THE EAST) AND LANDER STREET (ON THE WEST), IMMEDIATELY TO THE EAST OF A PREMISES KNOWN AS 25 GIDNEY STREET, MORE PARTICULARLY DESCRIBED AS A ONE STORY, ONE FAMILY HOUSE WITH GRAY IMITATION BRICK SIDING, HAVING TWO FRONT WINDOWS COVERED WITH WIRE MESH, ONE FRONT DOOR WITH A SMALL GLASS WINDOW PLACED DIAGONALLY WITHIN A WOODEN FRAME, AND A PREMISES KNOWN AS 15 EASTVIEW AVENUE, YONKERS, NEW YORK, A TWO STORY WHITE ASBESTOS SHINGLE RESIDENTIAL DWELLING, IMMEDIATELY TO THE SOUTH OF A PREMISES KNOWN AS 19 EASTVIEW AVENUE, YONKERS, NEW YORK, and others. During the course of this investigation I have received information from two confidential informants.

3. Confidential informant number one has been supplying information concerning gambling offenses to federal authorities for longer than five months. This person, who has been contacted by the Federal Bureau of Investigation on a bi-weekly basis, has given data which has been consistently corroborated and which has resulted in 19 arrests for gambling offenses.

4. Confidential informant number two is a person who has been supplying information concerning federal offenses to the Federal Bureau of Investigation for at least 18 months. This person has been contacted by agents of the Federal Bureau of Investigation on a monthly basis and the information he has given, which has been consistently corroborated, has resulted in 23 arrests for Federal gambling violations.

5. From my experience as an agent of the Federal Bureau of Investigation investigating policy gambling operations I know that a policy bet is a wager on a series of numbers placed by a gambler with a person called a "runner" or "writer". This "runner", having accepted bets from several gamblers, takes these bets to a location called a "spot" where the work product of numerous runners is collected. After all the bets are collected in the "spot" an individual commonly called a "pickup man" will collect bets from various "spots" and take them to a location commonly known as a "policy bank." In many instances, in order to prevent detection by police authorities, a policy gambling enterprise will employ several "pickup men" to pass the policy bets, seriatim, from the "spots" to the "policy bank." At the policy bank the accounting for the days wagers is done by trusted employees of the gambling enterprise. These persons will compute the daily receipts from each "runner" and the number of "hits" or wins by a gambler, and the portion of the profits to be split among "spots" and the "runners." The delivery of the gambling data takes place at the end of the normal working day, after all the wagers have been placed. In a policy gambling enterprise where the winning number is based upon the total amount wagered (commonly known the total "handle") at a particular race track, all bets must be

made and in the hands of trusted employees prior to the completion of the final race. Otherwise, a dishonest gambler could learn the winning number and place a bet on it. Thus, timing is an important element in the successful operation of a policy gambling enterprise. After the tabulations are completed at the "bank" (these tabulations are called in the gambling parlance "ribbons") they are delivered to a high level figure of the gambling enterprise, known as a "controller."

6. Informant number one is a person who is an acquaintance of HOKE ROBERTS and as such has had conversations with him over the past two years. On numerous occasions he has had an opportunity to place policy bets with HOKE ROBERTS at 22 North Perry Street, Poughkeepsie, New York. As a result of his conversations with HOKE ROBERTS and as a result of his own gambling activities informant number one knows that:

a. HOKE ROBERTS operates a policy gambling operation in the Poughkeepsie, New York area with the "spot" located at 22 North Perry Street, Poughkeepsie, New York. HOKE ROBERTS employs several runners. On several occasions during the past five months informant number one has placed policy bets with ROBERTS or various runners employed by ROBERTS. Some of these bets were placed at 22 North Perry Street. At the time he placed these bets he was able to converse with these men concerning their gambling operations. Informant number one was told by these men that there is a location in Newburgh, New York where "pickup men" from several different policy "spots" deposit their gambling bets. These are collected at the Newburgh location and given to a Negro female who transports the entire package to another "pickup man", closer to the policy bank.

7. Informant number two is a person who knows ALPHONSE CUZZO for several years and who has discussed policy gambling with him on occasion during that period of time. This informant reported that he was told by CUZZO that he, CUZZO, receives all the

policy bets from the mid-Hudson Valley and Rockland County, from a "pick up man". CUZZO stated that he then takes these policy bets to a house in Yonkers, New York, where he and his girlfriend, DONNA RUBEO, do the "bank work." (That is, CUZZO and RUBEO compute the daily receipts from each "runner" and the number of "hits" and the portion of the profits to be split among the "spots" and the "runners".) CUZZO stated that after he has done the "bank work" he takes the "ribbons" to a "drop", where MICHAEL ROMAN picks them up.

OBSERVATIONS BY FEDERAL BUREAU OF INVESTIGATION AGENTS

8. Since January 13, 1972 agents of the Federal Bureau of Investigation have observed on an almost daily basis policy gambling operations, or "spots", located in Poughkeepsie and Newburgh, New York. These observations indicate that the premises at 22 North Perry Street, Poughkeepsie, New York is a very active policy "spot" serving numerous bettors.

9. Between the dates of January 13, 1972 and August 17, 1972 on more than 10 occasions, agents of the Federal Bureau of Investigation observed approximately 40 people per day enter 22 North Perry Street. Many of these persons were observed carrying slips of paper and money into this location.

10. On March 16, 1970 HOKE ROBERTS was arrested by local authorities for the felonious promotion of gambling and the possession of gambling records, at 22 North Perry Street. He was, on September 15, 1971 sentenced to a six month term of imprisonment which he served from September 16, 1971 until February 11, 1972. After he was released from jail, agents of the Federal Bureau of Investigation observed ROBERTS back at 22 North Perry Street, commencing with July 14, 1972. Throughout the entire period of observation, commencing in January, 1972, the gambling activity set forth in paragraph 9, above, was observed.

11. Since 1965, HOKE ROBERTS has been arrested on five occasions by local authorities for policy gambling violations.

12. Commencing with August 4, 1972, on 17 separate days up to and including August 26, 1972, agents of the Federal Bureau of Investigation observed various portions of this gambling operation. On August 4, 1972 JOHN DOE was observed bringing the policy work from 22 North Perry Street to Newburgh, New York where he gave it to MELVIN ALLAN. This was observed on August 7, 8, 9, 11, 16 and 17, 1972. On August 21, 1972 JOHN DOE was observed taking the policy work from 22 North Perry Street to the Gidney Avenue house in Newburgh, New York. JOHN DOE was observed going from 22 North Perry Street to Gidney Avenue on August 22, 23, 24 and 25, 1972. MELVIN ALLAN was observed bringing work to the Gidney Avenue house referred to in paragraph 2, supra on August 21 and 22, 1972. On August 21 and 22, 1972 JANE DOE was observed going from the Gidney Avenue house to a meeting with BEEMAN BOWMAN, JR., during which meeting she passed the policy work to BOWMAN. Previously, on August 8 and 9, 1972 MELVIN ALLAN was observed taking a package to a male Negro who, in turn, gave it to BEEMAN BOWMAN, JR.

13. On August 8, 1972 BEEMAN BOWMAN, JR. was observed meeting with ALPHONSE CUZZO. After the meeting CUZZO traveled to 15 Eastview Avenue, Yonkers, New York. On August 14, 18, 19 and 22, 1972 BEEMAN BOWMAN, JR. was observed meeting with ALPHONSE CUZZO. After these meetings CUZZO would travel to 15 Eastview Avenue, Yonkers, New York.

14. On August 23, 24 and 25, 1972 agents of the Federal Bureau of Investigation observed JOHN DOE and MELVIN ALLAN go into the Gidney Avenue house with a package. Shortly thereafter JANE DOE went into the Gidney Avenue house and came out with a large purse. JANE DOE then met with ROMAN M. CASIANO and passed the bag to him. ROMAN M. CASIANO then met with BEEMAN BOWMAN JR. in Beacon, New York. BOWMAN then traveled to Elmsford, New York

where he met with ALPHONSE CUZZO. After this meeting CUZZO traveled to 15 Eastview Avenue, Yonkers, New York where he remained for some time. Thereafter CUZZO traveled to a telephone booth located on the Saw Mill River Parkway in Yonkers. CUZZO was seen putting envelopes underneath the telephone. Shortly thereafter MICHAEL ROMAN was seen at the telephone booth taking the envelopes. On August 24 and 25, 1972 this same pattern was observed. On each occasion which CUZZO traveled to the telephone booth on Saw Mill River Parkway in Yonkers in order to leave off the envelopes, he traveled with DONNA RUBEO.

15. On June 2, 1972 the Federal Bureau of Investigation raided a policy bank controlled by MICHAEL ROMAN. Envelopes of the same type which CUZZO and RUBEO left for ROMAN to pick up were found within that bank. In addition, BEEMAN BOWMAN, JR.'s name appeared on several small white slips of paper which were contained in the same envelopes as "ribbons" and policy bets. One note indicated that BEEMAN BOWMAN, JR. had come late to the telephone booth; another that he had taken part of his salary out of the receipts.

16. On May 15, 1972 MELVIN ALLAN was arrested by the New York State Police for the felonious possession of policy gambling material.

SYNOPSIS

A policy gambling "spot" is operated at 22 North Perry Street, Poughkeepsie, New York by HOKE ROBERTS; JOHN DOE "runs" the policy work to the Gidney Avenue house in Newburgh, New York. MELVIN ALLAN also "runs" policy work to the Gidney Avenue house. JANE DOE brings this policy work to ROMAN M. CASIANO who, in turn, brings it to BEEMAN BOWMAN, JR. BOWMAN then turns the work over to ALPHONSE CUZZO who, together with DONNA RUBEO, does the "bank work" at 15 Eastview Avenue, Yonkers, New York. After this is completed CUZZO and RUBEO bring the "ribbons" to a telephone booth within a service station located on the Saw Mill River Parkway, where it is picked up by MICHAEL ROMAN.

IDENTIFICATION OF "JANE DOE"

Surveillances by Agents of the Federal Bureau of Investigation of the gambling operation set forth above have indicated that "JANE DOE", a Negro female, about 35 years of age, about 5'9" tall, approximately 120-125 pounds, always drives a 1968 dark green Pontiac two-door sedan, bearing New York license plates, number FT-4286. This car is registered to Dorothy L. Plair, 148 Washington Street, Newburgh, New York. Informant number 1 has told agents of the Federal Bureau of Investigation that Eddie Washington, a major policy "spot" operator in Newburgh, New York, has told him that he employs his "girlfriend" as a 'pick-up' person. The Washington Street address on the registration of the Plair automobile is the same address as that of the home in which Eddie Washington resides. Therefore, the individual described herein as "JANE DOE" is believed to be Dorothy L. Plair. Her function within the operation, as described above, is to deliver the policy work from Eddie Washington's "spot" to the collection "spot" and the combined policy work to Raymon M. Casiano.

WHEREFORE, it is respectfully requested that search warrants as requested specifically in the affidavit attached, issue.

BOB C. REUTTER
Special Agent
Federal Bureau of Investigation

Sworn to before me this
day of_____, 1972.

UNITED STATES MAGISTRATE

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- -

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON, and HARRY WEIS,

Defendants.

SUPPLEMENTARY NOTICE OF MOTION TO SUPPRESS EVIDENCE - #2

- -

S I R :

PLEASE TAKE NOTICE, that upon the annexed affidavit of HERALD PRICE FAHRINGER, ESQ., duly sworn to on the 2nd day of April, 1973 and upon the Indictment and all other proceedings had herein, the undersigned will move this court on behalf of the defendant, MICHAEL ROMAN, at a Criminal Term to be held in the Federal Courthouse in the City of New York, State of New York, the day of , 1973, or as soon thereafter as counsel can be heard for orders granting the following relief:

I. A hearing to determine the admissibility of certain evidence seized from the defendants and an order suppressing the evidence illegally seized pursuant to Federal Rules 41(f) and 12 of the Federal Rules of Criminal Procedure;

II. An order granting such other and further

relief as is just under all of the circumstances of this case.

Dated: April 2, 1973
Buffalo, New York

Yours, etc.,

HERALD PRICE FAHRINGER, ESQ.
One Niagara Square
Buffalo, New York 14202
(716) 856-8400

Attorney for Defendant,
Michael Roman

TO: JOEL FRIEDMAN, ESQ.
Special Attorney
United States Department of Justice
26 Federal Plaza
New York, New York 10007

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AFFIDAVIT OF HERALD PRICE FAHRINGER IN SUPPORT OF MOTION

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- -

UNITED STATES OF AMERICA,

Plaintiff,

-vs- AFFIDAVIT

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON, and HARRY WEIS,

Defendants.

- -

STATE OF NEW YORK)
COUNTY OF ERIE : ss:
CITY OF BUFFALO)

HERALD PRICE FAHRINGER, ESQ., being duly sworn, deposes and says:

1) That he is an attorney duly licensed to practice law in the State of New York. Herald Price Fahringer is a member of the lawfirm of Lipsitz, Green, Fahringer, Roll, Schuller & James with offices at One Niagara Square, Buffalo, New York.

2) Counsel is thoroughly familiar with the facts and circumstances surrounding this case.

3) Counsel previously filed omnibus motions dealing with several aspects of this case, and also filed a supplementary motion to suppress evidence.

4) Subsequently counsel was given a copy of the affidavit in support of a search warrant issued for the residence of 354 Washington Street, Newburgh, New York and the person of Arthur and Albert Frangello and for any other person present at the premises, and he now attacks the validity of this search warrant. (Attached hereto and marked Exhibit "A" is a copy of the search warrant and supporting affidavit.)

5) The warrant in question was issued out of the Orange County Court of New York on the supporting affidavit of investigator J.A. Tripodo of the New York State Police Department, on the 23rd of November, 1971.

6) This warrant is totally invalid in that it was issued in the absence of probable cause and therefore any evidence acquired thereby must be suppressed.

7) The Tripodo affidavit begins by reciting various events he states to have personally observed on October 28, 1971. It is clear that these observations alone in no way indicate that gambling activity was occurring at 354 Washington Street. Moreover there is absolutely no statement which would support a belief that the alleged envelopes observed by Tripodo contained any gambling paraphernalia. Clearly the conduct outlined in the supporting affidavit is totally innocuous and could be indicative of any number of transactions aside from illegal gambling.

8) Furthermore, the Tripodo affidavit merely states that this conduct occurred for the most part in the vicinity of

the 354 Washington Street premises. At no place in the affidavit is it alleged by Tripodo that this conduct was occurring within the 354 Washington Street premises. Therefore there are no facts and circumstances which would support a finding that illegal gambling activities were occurring within the premises.

9) Finally, it is to be noted that the information contained in the affidavit was allegedly gained through a surveillance conducted between October 28, 1971 and November 12, 1971. Clearly any probable cause which may have existed at that period in time would be totally stale on the 23rd of November, 1971, the day the warrant was issued.

10) Also the observations of Tripodo of the 1966 blue Pontiac and its female occupant (6409-YC) and the various people she spoke to on the days named in the affidavit clearly does not lend support to a finding of probable cause for the search of the 354 Washington Street premises. There is no indication that during this period of time any of the packages or parcels which Tripodo describes in the affidavit contained gambling material.

WHEREFORE, it is respectfully requested that the search warrant be vacated on the grounds that it was issued upon insufficient probable cause in that the statements in the Tripodo affidavit described nothing more than innocuous conduct and concluded that gambling activity was taking place on this premises on nothing more than the mere suspicion generated by a belief in guilt by association.

Sworn to before me this
day of , 1973

EXHIBIT A - SEARCH WARRANT ANNEXED TO FOREGOING AFFIDAVIT

SEARCH WARRANT (Sec. 797 CCP)

County COURT

STATE OF NEW YORK)
COUNTY OF Orange) ss.:

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:

TO ANY POLICE OFFICER IN THE NEW YORK STATE POLICE, STATE OF NEW YORK

PROOF BY Affidavit HAVING BEEN MADE THIS DAY BEFORE ME BY Investigator J. A. Tripodo, of the New York State Police of Middletown, New York,

THAT THERE IS PROBABLE CAUSE FOR BELIEVING THAT** property constituting evidence of a crime or tending to show that a particular person committed a crime and possession of which is unlawful will be found.

YOU ARE THEREFORE COMMANDED, between the hours of 6:00 a.m. and 9:00 p.m.
TO MAKE AN IMMEDIATE SEARCH OF*** the residence 354 Washington Street, Newburgh, New York and the person of ARTHUR & ALBERT FRANGELLO and for any other person present at 354 Washington St., Newburgh, N.Y., which,

AND OF ANY OTHER PLACE AND

MAY BE FOUND TO HAVE SUCH PROPERTY IN HIS POSSESSION OR UNDER HIS CONTROL OR TO WHOM SUCH PROPERTY MAY HAVE BEEN DELIVERED, FOR**** monies, pads papers tablets adding machines and other paraphernalia used to record number and horse bets. No notice of intent or authority need be given prior to the execution of this warrant.

AND IF YOU FIND ANY SUCH PROPERTY OR ANY PART THEREOF TO BRING IT BEFORE ME AT my office

DATED AT Village OF Goshen, COUNTY OF Orange, N.Y., THIS 23rd DAY OF November, 19 71.

COUNTY COURT JUDGE
TITLE

* STRIKE OUT WHICHEVER IS NOT APPLICABLE.
** COMPLETE IN ACCORDANCE WITH SEC. 792 CCP.
*** IDENTIFY PREMISES.
**** DESCRIBE PROPERTY.

A SEARCH WARRANT MUST BE EXECUTED, AND RETURNED TO THE JUDGE, JUSTICE OR MAGISTRATE BY WHOM IT WAS ISSUED, WITHIN TEN DAYS AFTER ITS DATE. AFTER THE EXPIRATION OF SUCH TIME, THE WARRANT, UNLESS EXECUTED, IS VOID. (SEC. 807-1 CCP)

COUNTY OF ORANGE

IN THE MATTER OF

167a

The application of J. A. TRIPODO, an Investigator of the New York State Police, at Troop F, Middletown, New York, for a search warrant authorizing the search of 354 Washington Street, Newburgh, New York, that being the family residence of JOSEPHINE and LOUIS FRANGELLO. Also for the search of the person of ARTHUR FRANGELLO and ALBERT FRANGELLO, and for any other person present in the mentioned premises for papers, pads, tablets, monies, adding machines, and other paraphernalia used to record number and horse bets, sports bets, said bets being taken or possessed illegally to promote gambling in the 1st or 2nd degree.

STATE OF NEW YORK :

SS.:

COUNTY OF ORANGE :

Sworn statement of J. A. TRIPODO, being duly sworn, deposes and says:

1. That I am an Investigator of the New York State Police, assigned to the Bureau of Criminal Investigation at Troop F Headquarters, Middletown, New York and am presently assigned to investigate illegal gambling operations.

2. That this gambling investigation concerns ARTHUR and ALBERT FRANGELLO who are both known to me and are known gamblers in the Newburgh area.

3. On 10/28/71, I conducted surveillance in the vicinity of 354 Washington Street, Newburgh, New York which is the residence of JOSEPHINE FRANGELLO and LOUIS FRANGELLO, both being related to ARTHUR and ALBERT FRANGELLO, JOSEPHINE being their mother and LOUIS being their brother. On said date, I observed FRED LIPPI meet ART FRANGELLO in a small alley to the side of 354 Washington Street converse for a short period of time, then LIPPI left. LIPPI is a known gambler, having previously been arrested by me in the Newburgh area for Possession of Gambling Records. On that same date, I observed GEORGE SMREK meet with ALBERT FRANGELLO, on the side of 354 Washington Street, I saw SMREK hand a small envelope to ALBERT FRANGELLO, and ALBERT put the envelope in his right hand and walked down into the alley along side of 354 Washington Street, Newburgh. SMREK is also a known gambler in the Newburgh area, having previously been arrested for Possession of Gambling Records by me. On this same date, I observed numerous other persons whom I cannot identify, appear in the vicinity of 354 Washington Street, and hand ARTHUR FRANGELLO slips and I observed ARTHUR FRANGELLO then walk down an alley and into 354 Washington Street, Newburgh, New York.

4. On 10/29/71, I conducted surveillances in the vicinity of 354 Washington Street, Newburgh, New York and on that same date, I observed FRED WUELFING, approach the vicinity of 354 Washington Street, hand ALBERT FRANGELLO a small envelope, then WUELFING departed from the scene and ALBERT FRANGELLO with the envelope in his right hand, went into 354 Washington Street, Newburgh, New York. WUELFING is a known gambler in the Newburgh area, having previously been arrested by me for Possession of Gambling Records. On that same date, I observed FRED LIPPI, approach 354 Washington Street, 3 different times during the day, converse with ARTHUR FRANGELLO in the vicinity of 354 Washington Street and on one occasion went into 354 Washington Street with ARTHUR FRANGELLO. On that same date, I observed GEORGE SMREK, approach the vicinity of 354 Washington Street, and hand a small envelope to ALBERT FRANGELLO, ALBERT FRANGELLO then proceeded inside 354 Washington Street, Newburgh, New York, with the envelope in his right hand. On that same date, I observed PHYLLIS SASSONE, approach the vicinity of 354 Washington Street, and I saw ARTHUR FRANGELLO get into the car of PHYLLIS SASSONE and PHYLLIS SASSONE hand FRANGELLO a small envelope. ARTHUR FRANGELLO then proceeded into 354 Washington Street, Newburgh, New York, with Mrs. SASSONE departing immediately thereafter. On the same date, I observed HOWARD RICE, approach the vicinity of 354 Washington Street and while in front of said premises, met with ARTHUR FRANGELLO and I observed HOWARD RICE handing some money to ARTHUR FRANGELLO, FRANGELLO then put the money in his pocket and HOWARD RICE departed from the scene. FRANGELLO then went to 354 Washington Street, Newburgh, New York and when opening the door I observed a small manila envelope in his hand as he opened the door and went into the residence. On this same date, at approximately 4:40 P.M., I observed a blue 1966 Pontiac bearing New York registration 6409-YC, with a female operating the vehicle, drive to the rear of 354 Washington Street and remain there until such time as ARTHUR FRANGELLO went to her car and was observed handing something to the female in the Pontiac and on that same date, I followed the female who proceeded to the Haverstraw, New York area where she met with a subject HARRY WEISS, who is known to me a known gambler in Westchester County.

5. On dates of 11/2, 11/3, 11/10, 11/11 and 11/12/71, I conducted surveillance in the vicinity of 354 Washington Street, Newburgh, New York and at approximately the same times on each of the mentioned dates, the mentioned subjects in the above paragraphs also met with ARTHUR and ALBERT FRANGELLO handing envelopes to them in the same manner as mentioned in the two paragraphs.

6. On 11/10, 11/11, 11/12/71, I observed the female operating the 1966 blue Pontiac, bearing New York registration 6409-YC meet with ARTHUR FRANGELLO in the rear of 354 Washington Street, and with FRANGELLO handing her a small package, then I followed the female who went to the Haverstraw area and to the Fort Montgomery area, where she met with one HARRY WEISS, with WEISS getting into her vehicle

staying for approximately 5 minutes then departing. I followed the female from that location to another location in the Haverstraw area where she met with one PHILIP POLITI, a known gambler, known to me and having previously been arrested by me for Possession of Gambling Records.

7. On 11/22/71, the female mentioned in above paragraphs operating the 1966 Pontiac, color blue, bearing New York registration 6409-YC, identified as PATRICIA HYATT, Tuckahoe, New York was arrested in Rockland County, for a package that contained numerous policy plays.

8. Based upon my experience with the New York State Police, in conducting gambling investigations and the arrest of numerous persons for various gambling violations, and the knowledge of the operation of a policy scheme, it is my opinion that ARTHUR AND ALBERT FRANGELLO are in the business of accepting policy bets from the numerous persons approaching them and in turn are using the residence of 354 Washington Street, Newburgh, New York where neither of them reside, to further this policy operation.

9. Based upon the foregoing paragraphs and my personal knowledge, there is probable cause to believe that such property is possessed for the purpose of being used to commit an offense and may be found in the possession of ARTHUR or ALBERT FRANGELLO or any other person present in the premises mentioned.

10. Since the property sought is of such a nature that it may be easily destroyed, if notice of intent or authority be given prior to the execution of said warrant, it is requested that no notice of intent or authority be given prior to the execution of this warrant.

11. WHEREFORE, I respectifully request that the Court issue a search warrant and order of seizure in the form annexed, authorizing the search of 354 Washington Street, Newburgh, New York and also for the person of ARTHUR FRANGELLO and ALBERT FRANGELLO, and for any other person present in the residence of 354 Washington Street, Newburgh, New York, and directing that if such property or evidence or any part thereof be found, that it be seized and brought before the court, for any such disposition that the court may deem proper.

No previous application in this matter has been made in this or any other court to any other Judge, Justice or Magistrate.

D A Taylor

Sworn to before me this

23rd day of November, 1971

Orville Brown

Orville Brown Court Judge

54

AFFIDAVIT OF JOEL M. FRIEDMAN IN OPPOSITION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	
-v-	
ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS.	AFFIDAVIT IN OPPOSITION
Defendants.	73 Cr. 56

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

JOEL M. FRIEDMAN, being duly sworn, deposes and says:

1. I am a Special Attorney with the United States Department of Justice, assigned to the prosecution of the above captioned matter, and as such am familiar with the facts herein.

2. I make this affidavit in opposition to the motions of ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS, received by me on or about March 9, 1973.

SEARCHES

3. There are numerous searches involved in this case, all of which have been challenged by defense counsel. All affidavits in the possession of the Government in support of searches have been furnished to the defense. Additionally complaints have been furnished. A Xerox copy of items furnished to the defense is affixed hereto. Since counsel have already received copies I will only attach copies of forwarding letters to their affidavit. The Government recognizes and will conform to its duty to turn over copies of search warrant affidavits as to any and all evidence it intends to use at trial. The

Government consents to turn over inventories of items seized. It is submitted that a hearing will be necessary so that the Government may prove that there was no improper alteration of the January, 1971 Bobin Inn search warrant. It is submitted that a hearing is also necessary with respect to all warrantless searches.

WIRETAPS

4. The Government has no knowledge of any Federal Wiretaps with respect to this case, but will cause a check to be made with the Washington Files and report the results to the Court and defense counsel. The Government has in its possession certain local wiretaps. The Government does not intend to present any evidence at trial, which will be derived from said wiretaps. It is submitted that a taint hearing after trial, where the Government will turn over the appropriate papers, is the correct procedure, a pretrial hearing would unduly burden the court. After trial the issues will be more clearly defined.

MOTIONS of MICHAEL ROMAN

5. Defendant moves for discovery and inspection pursuant to Rule 16 of the Federal Rules of Criminal Procecure. The Government's position with respect to each item requested is as follows:

1. Opposed.
2. The Government will consent to allowing the defendant to inspect and copy all items in the Government's possession seized from his own person, automobile, place of business, or instrumentality but opposes allowing the defendant to inspect and copy items seized from other co-defendants and co-conspirators.
3. Opposed.
4. The Government has in its possession certain local mechanical and electronic recordings

obtained pursuant to court order which were not used to obtain any of the evidence contained in this case. It is respectfully submitted that a taint hearing subsequent to trial is the appropriate remedy to this situation. The Government would then be called upon to prove either no evidence was derived from the wiretaps or that the affidavits for the wiretaps are legally sufficient, or that the defendant has no standing to object to said wiretaps. The Government consents to turn over copies of warrants, orders and affidavits with respect to these items.

5. The Government has in its possession certain local mechanical and electronic recordings obtained pursuant to court order which were not used to obtain any of the evidence contained in this case. It is respectfully submitted that a taint hearing subsequent to trial is the appropriate remedy to this situation. The Government would then be called upon to prove either no evidence was derived from the wiretaps or that the affidavits for the wiretaps were legally sufficient, or that the defendant has no standing to object to said wiretaps. The Government consents to turn over copies of warrants, orders and affidavits with respect to these items.

6. Opposed

7. The Government has in its possession certain local mechanical and electronic recordings

obtained pursuant to court order which were not used to obtain any of the evidence contained in this case. It is respectfully submitted that a taint hearing subsequent to trial is the appropriate remedy to this situation. The Government would then be called upon to prove either no evidence was derived from the wiretaps or that the affidavits for the wiretaps are legally sufficient, or that the defendant has no standing to object to said wiretaps. The Government consents to turn over copies of warrants, orders and affidavits with respect to these items.

8. The Government will turn over all orders and affidavits pertaining to wiretaps in its possession. The Government opposes turning over any other of the items requested.

9. The Government will turn over all orders and affidavits pertaining to wiretaps in its possession. The Government opposes turning over any other of the items requested.

10. The Government has no applications or orders secured under Title 18, United States Code, Section 2518 in its possession. In addition the Government will cause a check to be made into all its agencies files with respect to the pertinent names and locations and will report to the Court.

11. The Government has no application or orders secured under Title 18, United States Code, Section 2518 in its possession. In addition the Government will cause a check to be made

into all its agencies files with respect to the pertinent names and locations and will report to the Court.

12. The Government has no application or orders secured under Title 18, United States Code, Section 2518 in its possession. In addition the Government will cause a check to be made into all its agencies files with respect to the pertinent names and locations and will report to the Court.

13. The Government will consent to allow defendant to inspect and copy scientific reports. The Government opposes turning over photographs.

14. Opposed.

15. Opposed.

16. Consented to with respect to his own grand jury testimony. Opposed with respect to co-defendants grand jury testimony.

17. Opposed

18. The Government recognizes its obligation under Brady v. Maryland and will comply with its obligation. The request herein exceeds the requirement of Brady. The Government has no Brady material in its possession but recognizes its continuing duty. The request in this paragraph is opposed in part as being too broad.

19. The Government has in its possession certain local mechanical and electronic recordings obtained pursuant to court order which were not used to obtain any of the evidence contained in this case. It is respectfully submitted

that a taint hearing subsequent to trial is the appropriate remedy to this situation. The Government would then be called upon to prove either no evidence was derived from the wiretaps or that the affidavits for the wiretaps were legally sufficient, or that the defendant has no standing to object to said wiretaps. The Government consents to turn over copies of warrants, orders and affidavits with respect to these items.

20. Opposed.

21. Eavesdropped warrants have been covered in preceding paragraphs. With respect to search warrants and affidavits the Government consents as to all such items in its possession.

22. Opposed.

23. Opposed.

24. Opposed.

25. Opposed.

MOTION UNDER BRADY V. MARYLAND

The Government recognizes and will comply with its continuing duty under Brady v. Maryland to turn over exculpatory material. It has no such material in its possession at this time. Said motion is opposed in all other respects.

BILL OF PARTICULARS

7. Defendant's motion pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure is consented to or opposed as follows:

With Respect To Count 1

(1) Opposed.

(2) Consents as to names of co-conspirators who have become known. Opposed as to

non-co-conspirator participants. Opposed as to all addresses.

(3) Opposed.

(4) Opposed.

(5) Consents as to names. Opposed as to addresses.

(6) through (2) Opposed.

With Respect To Count II

(1) through (3) Opposed.

With Respect To The Entire Indictment

(1) through (10) Opposed.

(11) Yes the indictment was read verbatim to the jury.

Statements Of The Defendant

8. Defendant moves for a hearing with respect to statements of defendants. The Government consents to a hearing to determine voluntariness, but believes the hearing can best be had out of the presence of the jury just prior to admitting said statement into evidence.

SEARCHES AND SEIZURES

9. With respect to the search warrants in this case all of such warrants set forth probable cause on their face and are therefore legally valid. Secondly defendant ROMAN has no standing to challenge searches of other people, searches of premises which he neither lived in, did business in, occupied, or had a claim of right to in any way, or searches of automobiles he neither occupied or had a proprietary interest in. Additionally, I have spoken to Robert Parkhurst and he has informed me that the affidavits with respect to the Bobbin Inn search were not altered after being sworn to. A copy of a report by Joseph P. McNally confirming the lack

of alteration is affixed hereto. However, it is believed a hearing is necessary as to this issue.

GOVERNMENT INFORMER

10. As to all the information relating to Topic F requested by the defendant, the Government opposes said request.

CONSTITUTIONALITY OF SECTION 1955

11. The motion of the defendant is opposed. Title 18, United States Code, Section 1955 has been declared constitutional in the past and is constitutional.

INSPECTION OF GRAND JURY MINUTES

Opposed.

MISJOINDER OF OFFENSES

Opposed.

SEVERANCE

12. All of the defendants charged in the indictment are alleged to be part of one overall conspiracy, and the evidence will show such. Severance would be improper and an extreme waste of judicial resources.

ANTHONY POLITI

13. With respect to the motions of ANTHONY POLITI for Discovery the Government opposes and consents to same as follows:

1-4. Opposes

5. Opposes

6. Consented to solely as to turning over all scientific statements and his own statements.

7. Opposed. An overall conspiracy is alleged and will be proven at trial.

8. Granted. No such matter is in Government's possession.

9. Opposed. There is no reason why items turned over should not be a matter of public record.

14. With respect to the motion of the defendant POLITI as to the January, 1971 Bobin Inn search the Government opposes such for the same reasons set forth in the response to MICHAEL ROMAN'S motions. However, a hearing is necessary.

MICHAEL CAMPOREALE

Severance

15. With respect to the motions of defendant MICHAEL CAMPOREALE for severence the Government opposes such motion. The perjury committed by him is with respect to questions posed to him as to the conspiracy charged in Count One of the indictment. Defendant CAMPOREALE is named in Count One as a co-conspirator not indicted. As to both Counts One and Three much of the proof presented to the jury would be the same. Severance would necessitate two virtually identical trials. This would be an extreme waste of judicial resources and a hardship to witness. The motion for severance is therefore opposed.

Discovery

16. With respect to defendant's motions for Discovery and Inspection, the Government consents and opposes as follows:

III(A) Consented to.

III(B) The Government consents to allow the defendant to inspect and copy all exhibits shown to him.

III(C) Consented to and opposed ANTHONY POLITI'S motions.

ALPHONSE CUZZO

17. With respect to defendant CUZZO'S motion to suppress the search of 15 Eastview Avenue, Yonkers, New York, said motion should be denied since the search warrant is clearly valid on its face.

GERALD POLITI, PHILIP POLITI AND HARRY WEIS

18. With respect to motions submitted by defendants GERALD POLITI, PHILIP POLITI and HARRY WEIS, they are general in nature and opposed and consented to as in motions by other parties in the other motions, with the exception of the appointment of a physician. The Government consents to an examination by a physician. It has notified the United States Public Health Service and they are willing to make the examination at such date and time as fixed by the Court.

ARTHUR FRANGELLO
LOUIS VISCONTI

19. Defendants moves for a bill of particulars pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure. The Government consents and opposes such as follows:

1. Opposed.
2. Opposed.
3. The Government will consent to supplying the name of all co-conspirators known at this time who were named in the indictment. The request is opposed in all other respects.
4. The Government will consent to supplying the name of all co-conspirators known at this time who were named in the indictment. The request is opposed in all other respects.

5 through 12. Opposed.

13. The indictment was read verbatim to the grand jury in final form.

14 through 17. Opposed.

MOTION FOR SEVERANCE

20. This motion is opposed. Count Three of the indictment will involve proof of the exact same conspiracy alleged in Count One. MICHAEL CAMPOREALE is alleged in Count One to be a co-conspirator not indicted. To sever would mean two trials with virtually the same evidence.

MOTION TO DISMISS THE INDICTMENT

23. Opposed.

MOTION FOR DISCOVERY AND INSPECTION

24. The Government opposes and consents to defendants motions for Discovery and Inspection as follows:

1. The Government has in its possession certain local mechanical and electronic recordings obtained pursuant to court order which were not used to obtain any of the evidence contained in this case. It is respectfully submitted that a taint hearing subsequent to trial is the appropriate remedy to this situation. The Government would then be called upon to prove either no evidence was derived from the wiretaps or that the affidavits for the wiretaps were legally sufficient, or that the defendant has no standing to object to said wiretaps. The Government consents to turn over copies of warrants, orders and affidavits with respect to these items.

2. The Government has in its possession certain local mechanical and electronic recordings obtained pursuant to court order which were not used to obtain any of the evidence contained in this case. It is respectfully submitted that a taint hearing subsequent to trial is the appropriate remedy to this situation. The Government would then be called upon to prove either no evidence was derived from the wiretaps or that the affidavits for the wiretaps were legally sufficient, or that the defendant has no standing to object to said wiretaps. The Government consents to turn over copies of warrants, orders and affidavits with respect to these items.

3. Opposed.

MOTION TO SUPPRESS EVIDENCE

25. All motions opposed. The affidavits are sufficient on their face. All searches without warrants were proper. A hearing is necessary as to warrantless searches.

WHEREFORE the Government respectfully requests that the defendants motions be denied except as consented to herein.

JOEL M. FRIEDMAN
Special Attorney
U. S. Department of Justice

Subscribed and Sworn to before me

this [illegible] day of [illegible], 1972

JOSEPH P. McNALLY
EXAMINER OF QUESTIONED DOCUMENTS
Waters Edge
Valley Cottage, N.Y. 10989
(914) CO 8-3201

American Academy of Forensic Sciences

Int'l Association for Identification

American Society of Questioned Document Examiners

July 31, 1972

Robert R. Meehan, District Attorney
Rockland County
Rockland County Court House
New City, N. Y.

ATT: A. D. A. Herman Van der Linde

Dear Sir:

A detailed examination and comparison was made of the following documents:

I. Application for a Search Warrant (Philip Politi) consisting of six typewritten pages. This is signed on the last page, "Robert Parkhurst" - sworn to before "Leonard Rubenfeld" "JSC" and dated January 26, 1971.

II. Search Warrant (Philip Politi) consisting of two typewritten pages. This is signed on the second page, "Leonard Rubenfeld" - Justice of the Supreme Court and dated January 26, 1971.

As a result of a series of detailed examinations the following determinations were made:

Typewriting

There are two typewriters involved in the typing of these two warrants (I and II). Both typewriters are I.B.M. typewriters using a type style designated as Courier 10 pitch (10 letters to the inch). One typewriter has a fabric ribbon and the other has a film ribbon. (Typewriter ribbons fall, roughly, into two separate categories: fabric ribbons of cotton, nylon, or silk varities - film ribbons of carbon paper, mylar, or polyethylene varieties.) For purposes of description in this report the IBM Courier typewriter with the fabric ribbon is designated as machine #1 while the IBM Courier typewriter with the film ribbon is designated as machine #2.

Machine #1 was used to type practically all six pages of Document #1 (Application for a Search Warrant), plus the first page of Document #2 (Search Warrant).

Machine #2 was used to type the second page of Document #II (Search Warrant) and the last sentence on Page 3 of the

Application for a Search Warrant (Document #I). This sentence reads, "On each occasion he was observed carrying a bag which I believe contained gambling records. (policy slips)." This sentence is the only typewriting on Document I not done by Machine #1.

Format

Work on these documents indicates the work of a formally taught typist. There are very few errors, certainly not enough to warrant any suspicion. The punctuation, margins, and general format has all the earmarks of a typist accustomed to drawing up legal papers of this kind.

The left margin on all these papers of Document I and Document II is maintained though there are some variations in the distance from the edge of the left side of the paper to the left margin. This again, is an insignificant variation with only the left margin of Page 2 of Document II being a significant distance from the left edge of the paper.

The right margins of the bulk of the sheets of paper in Document I and II is quite ragged only being really maintained in Page 6 of Document I and Page 2 of Document II. And on the two pages where it is maintained there are only a few lines of typewriting and each is the last sheet of the document involved.

The top and bottom margins of the sheets of paper in Document I and II vary slightly from page to page but the variation is slight and insignificant. The original typewriting on Page 3 would have made that bottom margin the greatest (excepting Page 1 and 2 of Document II, and Page 6 of Document I) of all the regularly typed sheets following in continuum. The added two lines from Machine #2 makes that bottom margin on Page 3 the smallest.

The numbers at the bottom of the sheets of Document I are carelessly centered and none of them are in the center of the paper. The "2", "4", and "5" are to the right of the center and the "3" and "6" are to the left of the center. The "2", "4", and "5" are in horizontal and vertical sequence with the typewriting above. Each number is five spaces below the last typed line. The "6" is also in sequence with the typewriting above. Being in sequence indicates that the paper on which they were typed was not removed or changed in the typewriter and the numbers were typed in regular sequence with the typewriting which precede it. However, the number "3" on this page in the Document designated I is not in sequence with the typewriting on the page done on Machine #1. And this "3" was typed on a machine with a fabric ribbon, ostensibly Machine #1.

Paper

184a

The paper used is "laid" paper watermarked with fine lines running across the grain and bearing the watermark, "VICTORIA LINEN VALLEY PAPER CO USA". There appears to be another marking centered below the legible watermark which may be a "key" or dating designation. This is not clearly discernible. This watermark is the registered watermark of the Valley Paper Co. of Holyoke, Mass. 10140.

Examination of the papers of Document I and II under ultraviolet revealed a brilliant fluorescence in the paper of Page 2 of Document II. All other paper did not fluoresce.

The thickness of each of the sheets of paper of Documents I and II was measured. The second page of Document II measured .0045 of an inch(approximately). All the other sheets measured .004 of an inch (approximately). It is obvious that Page 2 of Document II is different from the other paper. The other sheets are similar to each other.

Staples

The first page of Document I bore the markings of five sets of staples, one of which sets having only one leg of the staple penetrating. For purposes of description in this report these are numbered from left to right - staple #1 at upper left, staple #2 (right leg) slightly to the right, staple #3 about three inches in from the left edge of the paper, staple #4 at upper right, and staple #5 slightly to the right of #4.

All papers except Page 2 of Document II bore the markings of Staples #1, 2, 3, 4, and 5. Another exception was the blue backing sheet. Page 2 of Document II and the blue backing sheet had the markings of Staples #1, 2, 4, and 5. Staple #2 was not inserted through either Page 2 of Document II or the blue backing sheet.

Examination indicated that the holes made by Staples #1, 2, 4, and 5 coincided in all documents of Document I and II and the blue backing sheet. All stapled together.

The holes made by Staple #3 coincided in all papers of Document I (pages 1 through 6), and Page 1 of Document II. However, when the holes made by Staples 1, 2, 4, and 5 coincide throughout the papers of both Documents I and II and the blue backing sheet, the holes of Staple #3 do not match throughout the papers. This indicates that Staple #3 was used at a different time than Staples #1, 2, 4, and 5 and was not in the papers when Staples #1, 2, 4, and 5 were attached.

Staples (cont'd) 105a

Apparently Page 1 of Document II and the papers of Document I were stapled together with Staple #3, the order being Page 1 of Document II and then the papers of Document I. You can see the holes made in the last page of Document I where the anvil of the stapler turned in the legs of the staple to penetrate Page 6 of Document I. Note the decreasing penetration of these markings between the staple holes as you proceed from Page 6 to 5, etc. right up to the first page of Document II. At a subsequent time the staple (#3) was removed and Page 2 of Document II was inserted. Staple #3 was discarded and the papers of Document I and Document II plus the blue backing sheet were stapled together using Staple #1, #2, #4, and #5. The sequence here was Document #II first, followed by Document #1 in order, with the blue backing sheet fold over the top of Page 1 of Document II. This was determined by an inspection of the staple areas, particularly that of Staple #2 where the left leg of the staple did not penetrate. Note the bruised area of the paper of the fold of the blue backing sheet which is indented quite deeply. Page #1 of Document #II is also indented in this area but less so. Page #2 of Document #II is indented but less deeply, etc.

Conclusions

Page #1 of Document II, particularly the area containing the location of the Bobin Country Club, was carefully scrutinized. Nothing of suspicion was discovered here. There are no alterations, no erasures, and the typewriting is in sequence. The entire page was carefully checked but nothing suspicious or out of the ordinary is on this page. It is entirely normal.

Page 5 of Document I, particularly the area containing the location of the Bobin Country Club, was carefully scrutinized. Nothing suspicious was discovered here. There are no alterations, no erasures, and the typewriting is in sequence.

The only part of the documents which is peculiar is the typewriting of the last sentence of Page 3 of Document I. A different typewriter than that used for the rest of Document I is used. In addition, the "3" was apparently omitted after typing the bulk of this page, the page was removed from one typewriter, the last sentence typed on Machine #2 (film ribbon), removed from that machine and inserted, ostensibly back into Machine #1 where the "3" was then placed on the bottom of the page.

The aberration noted in Page 2 of Document #II may be logically explained. There is no question but that it differs from the rest of the papers involved in Documents I and II. It is a different paper than all the other sheets. It is typed on a different typewriter, and the format suggests a different typist. Added to that is the fact, that like the blue backing sheet, it lacks the staple holes of Staple #3.

But nothing, other than the situations of Page 3 of Document I and Page 2 of Document II, on the other papers is significantly out of the ordinary to warrant suspicion.

The bulk of these papers are double-spaced. The spacing between paragraphs is sometimes double-space, sometimes triple-spaced, and sometimes quadruple-spaced. Inconsistent yes, suspicious no.

The right margins of most of the sheets of paper making up the documents designated I and II are ragged and some lines come very close to the right edge of the paper. But legal paper is ordinarily ruled with a wide left margin and a narrow right margin and a typist normally doing legal work would tend to have a narrow right margin. But there may be another reason for the raggedness of the right margin. In all the typewriting we have on these many sheets of paper on Documents I and II there is not one line which ends with a hyphenated word. The typist here has a fetish against using a hyphen at the end of a line.

But despite the two aberrations noted (Page 2 of Document II and Page 3 of Document I) all these documents were stapled together as described in sequence and the patterns of indentations and penetrations from front and rear indicate that there were no substitutions of pages after being stapled together first with Staple #3 (other than Page 2 of Document II) and then stapled with Staple #1, 2, 4, and 5.

Yours truly,

Joseph P. McNally
DOCUMENT EXAMINER

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number

Organized Crime and Racketeering Section
26 Federal Plaza, New York, N. Y. 10007

February 22, 1973

Herald Price Fahringer, Esq.
One Niagra Square
Buffalo, N. Y. 14202

Re: United States v. Anthony Politi, et al.
73 Cr. 56

Dear Sir:

In anticipation of discovery motions, and to comply with representations made to Judge Lasker at our pretrial conference, I forward herewith copies of:

1. Order and application for search warrant dated January 26, 1971, authorizing the search Philip Politi, a bungalow and an automobile.

2. Application and orders dated November 22, 1971 authorizing the search of a 1971 black Pontiac, a 1964 blue Oldsmobile, and Philip Politi.

3. Affidavit, complaint, Warrant of Arrest affidavit for search warrant, Search Warrant, all executed on or about June 2, 1972. The search pertained to the premises known as 77 Broadway, Park Ridge, N. J. The arrest authorized was that of Michael Roman.

4. Affidavit dated June 13, 1972 in support of search and arrest warrants. The affidavit being captioned: United States v. Lonnie Johnson, J. H. Carrington, J. Eddie Washington, Leonard Harrison, Arthur Frangello, Louis Visconti, Patricia Ann Hyatt, Michael Camporeale, Gerald Politi, Jane Doe, a white female, about 21 years of age, about

5'4" tall, 100 lbs., who drives a blue 1964 Dodge bearing N.Y. License #2962 NW, and John Doe, a white male, about 25 years of age, about 5'10" tall, 150 lbs., with long brown hair and a moustache, who drives a 1962 Grey Oldsmobile, bearing N.Y. License No. 6185 FF. The premises known as 94 Garden St., Poughkeepsie, N.Y. further described as a two story, one family frame residential dwelling. Also enclosed a complaint for the above captioned individuals, dated on or about June 13, 1972, affidavit and search warrant for above captioned premises.

5. Complaint for arrest of Anthony Politi and Robert Peters dated August 30, 1972. Affidavit dated August 30, 1972 in support of complaint.

6. Search warrant dated August 29, 1972 and accompanying affidavit, for Jane Doe, believed to be Dorothy L. Plair.

7. Affidavit in support of Search Warrants for the persons and premises (description abbreviated herein) and arrest warrants for the individuals, captioned as follows:

Hoke Roberts
Melvin Allan
Ramon Casiano
Beeman Bowman, Jr.
Alphonse Cuzzo
Donna Rubeo
Michael Adam Roman, Jr.,
the person of Dorothy L. Plair,
the premises, immediately to the east of 25 Gidney St., Newburgh, N.Y.,
the premises known as 15 Eastview Avenue, Yonkers, N.Y.,
the premises known as 22 North Perry St., Poughkeepsie, N.Y. dated August 28, 1972

and search warrants, search warrant affidavits and complaints in support thereof.

In addition to the above, a search was conducted at 199 South Street, Newburgh, N. Y. June 14, 1972. A copy of the Search Warrant will be forwarded shortly.

Individuals and automobiles searched at about the time of arrest are:

June 14, 1972	Lonnie Johnson
	Eddie Washington plus car
	Leonard Harrison plus car
	Arthur Frangello
	Louis Visconti (important) plus car
June 20,1972	Michael Camporeale plus car
August 29, 1972	Robert Peters' car
	Robert Peters & Tony Politi
	Michael Roman

I believe this letter with enclosures gives you sufficient information to prepare any challenges with respect to searches. If you believe you are entitled to or in a spirit of cooperation should be given additional information with respect to searches, please contact me.

Very truly yours,

Joel M. Friedman

Joel M. Friedman
Special Attorney
U. S. Department of Justice

cc: Hon. Morris E. Lasker
U.S. District Court Judge

Enclosures

JMF:feh

Affidavit and Search Warrant pertaining to 199 South St., Newburgh, New York has been obtained and is enclosed.

Organized Crime and Racketeering Section
26 Federal Plaza, New York, N. Y. 10007

March 6, 1973

Irving Anolik, Esq.
225 Broadway
New York, N. Y. 10007

Dear Sir:

The affidavit in support of the search of Dorothy Plair, was apparently omitted from item 6, of my February 22, 1973 letter. I apologize for any inconvenience this may have caused and forward said affidavit herewith.

Very truly yours,

Joel M. Friedman
Special Attorney
U. S. Department of Justice

Enclosure

cc: Hon. Morris E. Lasker
U. S. District Court Judge

JMF:feh

NOTICE OF MOTION IN BEHALF OF ANTHONY POLITI IN SUPPORT

UNITED STATES DISTRICT COURT (Filed March 9, 1973)
SOUTHERN DISTRICT OF NEW YORK

- -X

UNITED STATES OF AMERICA

-v-

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS,

Defendants.

Indictment No.
73 Cr. 56

MOTION OF DEFENDANT
ANTHONY POLITI

S I R :

PLEASE TAKE NOTICE, that upon the annexed statement of VINCENT W. LANNA, attorney for the defendant, ANTHONY POLITI, upon the Indictment herein and upon all of the proceedings heretofore had herein, a motion will be made before this Court at the Courthouse, Foley Square, New York City, at a time and date to be fixed by United States District Judge Morris E. Lasker, for an Order suppressing evidence derived as the result of the execution of a search warrant dated January 26th, 1971 and for such other and further relief as to the Court may deem just and proper.

Dated: Yonkers, New York
March 6th, 1973

Yours, etc.

LANNA, COPPOLA & ROSATO, ESQS.
50 Riverdale Avenue
Yonkers, New York 10701

VINCENT W. LANNA, ESQ.
Attorney for Deft. Anthony
(914)968-2020 Politi

TO: JOEL FRIEDMAN, ESQ.
Special Attorney
U.S. Department of Justice
26 Federal Plaza
New York, New York 10007

STATEMENT OF VINCENT W. LANNA IN SUPPORT OF MOTION 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X

UNITED STATES OF AMERICA

-v-

Indictment No.
73 Cr. 56

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS,

STATEMENT

Defendants.

- -X

VINCENT W. LANNA, an attorney at law duly admitted to practice in this Court states that he represents the defendant ANTHONY POLITI. This statement is submitted in support of a Motion to Suppress as evidence that which the Government alleges was obtained as the result of the execution of a search warrant executed on the 26th day of January, 1971 by the Honorable Leonard Rubenfeld, a Justice of the Supreme Court of the State of New York. A copy of such search warrant is attached hereto, made a part hereof and marked as Exhibit "A".

The said search warrant was executed by New York State law enforcement agents on the 26th day of January, 1971 in the Hamlet of Rockland Lake, Town of Clarkstown, County of Rockland and State of New York.

As the result, an arrest occurred involving the defendant named herein as well as the co-defendants PHILIP POLITI, MICHAEL A. ROMAN, JR.; one PASQUALE A. MASELLI who is a co-conspirator in the instant Indictment but not a defendant, and another person by the name of RAYMOND B. HANLON.

Thereafter, a preliminary hearing was conducted in the Justice Court of the Town of Clarkstown on February 2nd, 1971, after which the defendant, ANTHONY POLITI and others were held for the action of the Rockland County Grand Jury which culminated

in an Indictment being handed up in said County, to which the defendant, ANTHONY POLITI, has entered a plea of not guilty and presently awaits trial. The Rockland County Indictment number is 71-27.

A Motion to Vacate the warrant in question here was instituted in the State Courts, a copy of said motion papers with attending affidavits being attached hereto, made a part hereof and marked as Exhibit "B". It should be noted that the motion initially was directed to the issuing Judge, the Honorable Leonard Rubenfeld, who in turn referred said motion to the Rockland County Court, where it presently remains before the Honorable Theodore Kelly, Rockland County Judge.

The said motion in the Rockland County Court to date has not been resolved as the result of many problems, one of which invdives the examination of bo the warrant, and the affidavit upon which it was granted, by a typewriter expert. Said examination has since been accomplished in behalf of the defendant, a copy of said findings being attached hereto, made a part hereof and marked as Exhibit "C".

Rather than being duplicitous in alleging herein the grounds, it is respectfully suggested that a reading of the attached Exhibits, more especially the affidavits of the author herein as well as the defendant, co-defendants Philip Politi, Michael Roman and the co-conspirator, Pasquale Maselli, more than amply allege the grounds advanced for the purposes of suppressing the evidence allegedly seized in connection with that particular warrant.

In essence, however, and as an examination of the documents will clearly reveal, it is the contention of the defendant, that the warrant originally misdescribed the location for the search contained therein and that the same was changed thereafter so as to conform to the exact location at which the search and

seizure occurred.

In view of the allegations contained herein, including the Exhibits attached hereto, it is respectfully requested that this Court set this matter down for an evidentiary hearing regarding the suppression of the evidence in question.

Dated: Yonkers, New York
March 6th, 1973

VINCENT W. LANNA

EXHIBIT C - REPORT ON QUESTIONED DOCUMENTS
ANNEXED TO FOREGOING STATEMENT

Report on Questioned Documents

for

VINCENT W. LANNA, ESQUIRE
Lanna, Coppola & Rosato

Submitted by

Pearl L. Tytell

Martin K. Tytell

July 25, 1972

EXHIBIT"C"

which further develop in it an individuality all its own. This individuality, created by use, will readily differentiate its work from all other machines of the same make or reveal deterioration of the same machine over a period of time.

The factors which serve to individualize typewriting are deviations from normal or defects occurring in, or affecting, any of the following:

1. type face
2. horizontal alignment
3. vertical alignment
4. slant
5. tilt
6. differences in pressure

Any one, or combination, of these defects may be present in a single type.

Some IBM typewriters utilize a carbon ribbon rather than a fabric ribbon. The impres-

I Documents in Question

1. A six-page typewritten affidavit, the pages of which will henceforth be designated as A1, A2, A3, A4, A5 and A6.

2. A two-page typewritten warrant, the pages of which will henceforth be designated as W1 and W2.

Both refer to an application for a search warrant for Philip Politi, certain described premises, and a certain motor vehicle; both are dated January 26, 1971, and signed by Justice of the Supreme Court Leonard Rubenfeld.

II Purpose of the Examination

The purpose of the examination is to determine whether the questioned documents were produced in continuous typing operations, and to identify any irregularities in the production of the documents.

III Nature of the Examination

Photocopies of the eight pages of the combined questioned documents were submitted for examination by Vincent W. Lanna, Esquire, on February 13, 1972. This initial examination revealed that the typestyle exhibited in the document was the IBM design known as Courier 10, type code 087, identification mark SM, released to the public in 1956. Control standards were prepared on machines with similar type to determine class and individual identifying characteristics.

On June 15, 1972, by arrangement with Gerard M. Damiani, Esquire, of the Rockland County District Attorney's Office, Mr. James Stewart, an investigator with the department, brought the original documents to the Tytell Questioned Document Laboratory at 116 Fulton Street, New York City for examination. In the course of this examination the techniques of modern scientific document analysis were uti-

lized, including the use of such instruments as the binocular stereoscopic microscope, other magnifying devices and overlay measuring plates. The Nikon Optical Comparator, a special instrument that magnifies on to a grid was utilized in the examination and comparison of the documents.

All eight pages representing the total of the two documents in question were bound with two staples within a blue-back cover. In Mr. Stewart's presence, the staples were carefully removed and the staple holes in each of the eight sheets were counted and compared. Each of the eight sheets were photographed at the Miller Photography Studios, 108 Fulton Street, New York City and slides were taken of the documents in the Tytell Laboratory subsequently.

On June 30, 1972, again with Mr. Stewart present, the questioned documents were photographed extensively once more at the Miller Studios and examined further. On a third occa-

sion, July 7, 1972, the documents were analyzed with the aid of the Nikon Optical Comparator, and additional slides were taken.

IV Typewriter Identification

When a typewriter comes off the manufacturer's assembly line, it is carefully aligned and adjusted. An attempt is made to standardize each machine so that it has no individuality. This can never be achieved. There is almost certain to be some detectable defect. There are forty-three or forty-four type blocks which carry a total of eighty-six or eighty-eight characters, any one of which may be defective when coined, or may be damaged in handling. Minor defects in alignment may escape the attention of the factory inspector yet be sufficiently definite to be revealed by simple tests that give the machine individuality.

Since a typewriter is a mechanical instrument, it is subject to accident and wear

sion through a carbon ribbon is sharper, facilitating identification of type details.

J. Newton Baker, in his Law of Disputed and Forged Documents, comments:

"Every important document should be typewritten in one continuous operation without hesitation. Such operation means continuity of typewriting and implies that the act of typewriting was done by the same operator and that all was written at the same time without interruption, without removal of the paper from the machine or without adjustment of the platen. This feature of typewriting may be a very important factor if any suspicion should arise as to the condition and authenticity of the document or as to whether an alteration or addition was made without authority.

"An interruption in the continuity of typewriting may be indicated by variations in the line spacing, parallelism of the lines, alignment of the letters, color of the typewrit-

ing, or the impression of the type characters and the carbon copy. Even though it would seem to be a simple operation, when paper is removed and then replaced in the typewriter the position and alignment of the characters are seldom attained to correspond with precision to the general typewriting of the document." (Page 492)

James V. P. Conway, in his Evidential Documents, cites the case of Radomsky v. United States, reported in 180 F 2d 781, CCA 9. In this case the paper stock and the number of staple holes on the fifth page was different in weight and quality and the number of staple holes from the first four pages. He comments: "Every mark, every hole, every fold, every crease on a piece of paper testified either pro or contra the origin and the history claimed for that document." (Page 192)

Typists vary in their choice of margins, length of lines, spacing, punctuation and

abbreviations. These features reflect the personal taste and habit of the operator and sometimes affect the quality of her work. Such factors are significant in identification.

Albert S. Osborn, in the second edition of Questioned Documents, cites and illustrates an example of typist identification by means of space and period habits: "From the claim papers of James W. Conger estate case, Cleveland Ohio, 1927. Conger was a self-taught typewriter operator and left no space after commas and periods while the claim papers alleged to have been written by him were all correctly spaced as shown in second and fourth columns." (Page 597)

V Findings

It is evident that neither questioned document was produced in a continuous operation, nor did a single typist produce either document

in toto.

Specific irregularities in both documents are:

1. Two typewriters were used to produce the questioned documents. W2 was typed on a different typewriter from W1. W1 was typed on the same machine as A1, A2, A3, A4, A5 and A6. The last three lines of A3, starting with, "On each occasion", and ending with "(policy slips).", were typed on the same machine as W2, and on a machine different from that used for the foregoing material on the same page. Page A3 was therefore necessarily reinserted in the typewriter to add those last three lines to the page.

2. W2 was typed through a different kind of ribbon than that used for any of the other seven pages with the exception of the last three lines on page A3. A carbon ribbon typewriter was used for W2, a machine equipped with a fabric ribbon was used for W1 and A1, A2, A3,

A4, A5 and A6. In addition the fabric ribbon used for W1 and A5 produces a write which is more intense than the write of the fabric ribbon which produced A1, A2, A3, A4 and A6.

3. The paper used for all of the pages in both documents originated at the same mill, Valley Paper Company, at Holyoke, Massachusetts. However,the sheet used for W2 is a different grade of paper.

4. That there were at least two different typists is revealed by the different ways of expressing AM and PM in A3 and W1.

5. W1 is inconsistent in spacing when compared with W2.

6. W2 has two staple holes less than the other seven pages of the combined documents.

VI Conclusions

The questioned documents were not pro-

duced in the regular, customary manner. Two typewriters were used for each document and at least two different typists produced the documents. Differences in ribbons and staple marks are evident.

The numerous suspicious features in combination leads to the conclusion that the documents in question are spurious.

Respectfully submitted,

Pearl L. Tytell

Martin K. Tytell

60

NOTICE OF MOTION IN BEHALF OF DEFENDANTS FRANGELLO AND VISCONTI
(Filed March 7, 1973)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X

UNITED STATES OF AMERICA

73 Cr. 56 (MEL)

- against -

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

NOTICE OF MOTIONS

Defendants.

----------X

S I R S :

PLEASE TAKE NOTICE that, upon the indictment herein and upon the annexed motions and memoranda of law, the above-named defendants will move this Court, at a time to be hereafter fixed by Hon. Morris E. Lasker, as follows:

1. for an order, pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure, directing the Government to file and serve a bill of particulars of the matters designated and upon the grounds set forth in the annexed motion for said order;

2. for an order, pursuant to Rule 8 or, in the alternative, Rule 14 of the Federal Rules of Criminal Procedure, severing Count 3 from the indictment and directing a separate trial on that count;

3. for an order, pursuant to Rule 12 of the Federal Rules of Criminal Procedure, dismissing the indictment on the grounds set forth in the annexed motion for said order;

4. for an order, pursuant to Rule 16 of the Federal Rules of Criminal Procedure, permitting defendants Frangello and Visconti to inspect and copy or photograph all materials referred to in the annexed motion for said order; and

5. for an order, pursuant to Rule 41 of the Federal Rules of Criminal Procedure, suppressing as evidence the items listed in the annexed motion for said order, upon the grounds, as more particularly set forth in the annexed memorandum of law, that their seizure violated the defendants' rights under the Fourth Amendment; and for an order granting defendants Frangello and Visconti such relief as is granted to any of the other defendants which is equally appropriate in their cases; and for an order granting such other and further relief as to the Court may seem just and proper.

Dated: New York, New York
March 6, 1973

Yours, etc.,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel for Defendants Frangello
and Visconti

TO:

Hon. Whitney North Seymour, Jr.
United States Attorney for the
Southern District of New York

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X

UNITED STATES OF AMERICA

- against -

73 Cr. 56 (MEL)

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

Defendants.

----------X

MOTION FOR A BILL OF PARTICULARS

Defendants Frangello and Visconti move, pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure and the inherent powers of the Court, and upon the grounds set forth in the annexed memorandum of law, for an order directing the Government to serve and file a bill of particulars of the indictment herein, as follows:

With Respect to Count One, Paragraph 1

1. State where, other than in the Southern District of New York, the alleged conspirators agreed with each other to violate 18 U.S.C. §1955.

2. State the date upon which the conspiracy alleged actually terminated.

3. State the names and addresses of those other persons known to the grand jury to have participated in the conspiracy.

4. State the names and addresses of those other participants in the conspiracy whose names were unknown at the time of the filing of the indictment but have subsequently become known,

and so state with respect to any participant whose name becomes known subsequent to the disposition of this motion but prior to the end of the trial to be had herein. If such participants cannot be named but can be identified in some other way, so identify them.

With Respect to Count One, Paragraph 2

5. State which of the named defendants and co-conspirators

(a) conducted

(b) financed

(c) managed

(d) supervised

(e) directed or

(f) owned

the alleged illegal gambling business, and state further the general conduct of each which justifies his being placed in such a category.

With Respect to Count One, Paragraph 3(b)(i)

6. State the names of the alleged "runners" who the grand jury failed to name either as defendants or as co-conspirators.

With Respect to Count One, Paragraph 3(b)(ii)

7. State the various means by which the named defendants allegedly caused the bets and policy slips to be transported.

With Respect to Count One, Paragraph 3(b)(iv)

8. State the names and addresses of the various

individuals through whom the bets and policy slips were allegedly transported to the policy bank.

With Respect to Count One, Paragraph 3(b)(viii)

9. State the names and addresses of the various individuals through whom the defendant Roman allegedly caused the described items to be transported to the defendant Visconti.

With Respect to Count Two

10. State which of the named defendants and co-conspirators

(a) conducted

(b) financed

(c) managed

(d) supervised

(e) directed or

(f) owned

the alleged illegal gambling business, and state further the general conduct of each which justifies his being placed in such a category.

With Respect to the Entire Indictment

11. State whether the Government intends to offer into evidence any statement implicating any defendant in the commission of the crimes charged made by a defendant or by an alleged co-conspirator whom the Government does not intend to call as a witness and, if so, state (a) the name of the person who allegedly made the statement and (b) the contents of the statement allegedly made.

12. State whether the indictment, in its final form, was drafted by the prosecuting agency before the grand jury voted to return an indictment.

13. State whether the indictment, in its final form, was either exhibited or read verbatim to each of the grand jurors who voted to return it before that vote was taken.

14. As to any legal advice given to the grand jurors by the prosecutor concerning the interpretation of 18 U.S.C. §1955, as applied to the subject matter or any of the allegations of this indictment, set forth the transcript of such legal advice if recorded, or its detailed substance if unrecorded.

15. State whether each of the witnesses who testified before the grand jury testified solely on the basis of his own personal knowledge and, if not, state further: (a) who it was that gave hearsay testimony; (b) the name of the person with actual knowledge of the facts as to which the hearsay testimony was given; and (c) the reason why the Government failed to produce before the grand jury the person with actual knowledge of those facts.

16. State, with respect to any electronic eavesdropping device installed by or at the direction of agents of the Government which was utilized to eavesdrop upon a defendant or upon any conversation which occurred at a place or through a facility leased or owned by him or in which he had a proprietary interest: (a) the authority pursuant to which said device was installed; (b) the name and address of each person who authorized such installation; (c) the location of each such device; (d) the date of installation of each such device; (e) the name and address of each person who

installed such a device; (f) the date of each such eavesdropping; (g) the name and address of each person who monitored such an eavesdropped conversation; (h) whether a recording was made of such conversation and, if so, whether that recording was destroyed and, if so, by whom and upon what authority; (i) the type of record, memorandum or document that was made in connection with each such eavesdropping; (j) the date of removal of each such device; and (k) the name and address of each person who removed such a device.

17. State, with respect to the preparation, routing, circulation and destination of each memorandum, document, report, paper or written communication of any nature whatsoever made directly or indirectly as a result of said eavesdropping: (a) the person who made the same; (b) the place, date and purpose of its preparation; (c) the name and address of each person or agency to whom a copy thereof was sent; and (d) the manner in which each such document described herein was utilized by a Government agent or agency.

Respectfully submitted,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel to Defendants Frangello
and Visconti

MEMORANDUM OF LAW IN SUPPORT OF SAID MOTION FOR BILL OF PARTICULARS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

- against - 73 Cr. 56 (MEL)

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

Defendants.

----------X

MEMORANDUM OF LAW IN SUPPORT OF THE DEFENDANTS' MOTION FOR A BILL OF PARTICULARS

Rule 7(f) of the Federal Rules of Criminal Procedure was amended effective July 1, 1966, for the express purpose of liberalizing the granting of particulars in federal criminal cases. See the Advisory Committee's Note to amended Rule 7(f), as reprinted in Moore's Federal Practice -- Cipes, Federal Criminal Rules, Par. 7.07[2] (1966).

The Advisory Committee cites, as an example of the practice to be followed under the amended rule, the opinion of Judge (later Justice) Whittaker in United States v. Smith, 16 F.R.D. 372 (W.D. Mo. 1954). Judge Whittaker's opinion lays down these principles:

> Certainly the fact that an indictment or information conforms to the simple form suggested in the rules is no answer or defense to a motion for a bill of particulars under Rule 7(f). Rule 7(f) necessarily presupposes an indictment or information good against a motion to quash or a demurrer. Its proper office "is to furnish to the defendant further information respecting the charge stated in the indictment when necessary to the preparation of his defense, and to avoid

perjudicial surprise at the trial," and when necessary for those purposes, is to be granted even though it requires "the furnishing of information which in other circumstances would not be required because evidentiary in nature," "and an accused is entitled to this as of right." U.S. v. U.S. Gypsum, D.C., 37 F.Supp. 398, 402. To the same effect are Singer v. U.S., 3 Cir., 58 F.2d 74, U.S. v. Allied Chemical & Dye Corp., D.C. 42 F.Supp. 425, 428; Fontana v. U.S., 8 Cir., 262 F. 283. It seems quite clear that "where charges of an indictment are so general that they do not sufficiently advise defendant of the specific acts with which he is charged, a bill of particulars should be ordered." Cases cited and U.S. v. Grossman, D.C. 55 F.2d 408; Chew v. U.S., 8 Cir., 9 F.2d 348, 353.

This must necessarily be true when we realize that there is no discovery means in criminal cases, such as provided by the civil rules for civil cases, and that the only means open to a defendant, in a criminal case, for the securing of the details of the charge against him is that afforded by Rule 7(f) of the Federal Rules of Criminal Procedure. "'Bills of particulars have grown from very small and technical beginnings into most important instruments of justice ... While they are not intended to advise a party of his adversary's evidence or theory, they will be required, even if that is the effect, in cases where justice necessitates it.'" U.S. v. Balaban, D.C., 26 F.Supp. 491, 499.

Nor is it any answer to a motion for a bill of particulars for the government to say, "The defendant knows what he did, and therefore, has all the information necessary." This argument could be valid only if the defendant be presumed to be guilty. For only if he is presumed guilty could he know the facts and details of the crime. Instead of being presumed guilty, he is presumed to be innocent. Being presumed to be innocent, it must be assumed "that he is ignorant of the facts on which the pleader founds his charges." Fontana v. U.S., 8 Cir., 262 F. 283, 286; U.S. v. Allied Chemical & Dye Corp., D.C. 42 F.Supp. 425. This conclusion seems to me to be elementary, fundamental and inescapable. 16 F.R.D. at 374-75. (Emphasis in original)

In addition to these general principles, case law supports many of the specific requests for particulars requested by the motion.

Item 1 requests information as to where, other than in the Southern District of New York, the conspirators agreed to violate the law. The right to particulars as to such matters as the time and place of the acts charged is established by: United States v. Smith, supra at 373-75; United States v. Glaze, 313 F.2d 757, 758 (2d Cir. 1963); United States v. Wilson, 20 F.R.D. 569, 571 (S.D.N.Y. 1957) (Dimock, J.).

Item 2 requests the date upon which the conspiracy alleged actually terminated. Despite the prosecutorial practice of alleging that the conspiracy lasted until the filing of the indictment, such is not usually so. The actual date of the conpiracy's termination is an important item of information for the defense, especially since that date must be known by counsel in order to enable them to make appropriate objections to evidence of statement made by co-defendants after that date.

Items 3 and 4 request the names and addresses of alleged co-conspirators. These requests are supported by: United States v. Covelli, 210 F.Supp. 589, 590 (N.D. Ill. 1962); United States v. Solomon, 26 F.R.D. 397, 402, 407-08 (S.D. Ill. 1959).

Items 5 through 10 all request information directly relevant to the charges contained in the indictment. They do not seek mere evidence or the theory of the Government's case. Rather they seek a particularization of the allegations sufficient to enable the defendants to locate and gather documentary and other evidence in refutation of the charges.

Item 11 requests information as to whether the Government intends to offer any statement of any alleged conspirator which implicates any defendant in the commission of the crime

where the Government does not intend to call as a witness the maker of the statement. The purpose of the request is to enable defendants to prepare a motion to strike such a statement if made by a non-defendant conspirator or to request a severance of defendants with respect to any defendant who may have made such a statement. The ground of such motions would be that introduction of such a statement would deprive defendants of their right to confront witnesses against them.

Items 12 and 13 request information essential to a determination as to whether the procedure by which the Government secured the indictment herein violated the Sixth Amendment and Rule 6 of the Federal Rules of Criminal Procedure. See Gaither v. United States, 413 F.2d 1061 (D.C. Cir. 1969), holding illegal a grand jury procedure by which an indictment was handed down without it having been seen and approved in its final form by each of the grand jurors who voted it.

Item 14 seeks information essential to a determination as to whether the grand jurors may have been given erroneous legal advice before voting whether to indict. If erroneous advice was given as to a material matter, the indictment should be dismissed, just as a conviction would be reversed if based upon an improper charge to the jury.

Item 15 requests information as to whether the Government unnecessarily resorted to hearsay testimony before the grand jury. If it did, defendants will wish to make that fact the basis for a motion to dismiss the indictment. See, e.g.: United States v. Umans, 368 F.2d 725, 730 (2d Cir. 1966), writ of certiorari dismissed as improvidently granted, 389 U.S. 80 (1967); United States v. Arcuri, 282 F.Supp. 347, 349 (E.D.N.Y. 1968).

Items 16 and 17 both seek information dealing with any eavesdropping to which defendants may have been subjected. Authority for these two requests is based largely upon Black v. United States, 385 U.S. 26 (1966). In that case Black's conviction of income tax evasion was affirmed by the United States Court of Appeals for the District of Columbia Circuit. After a petition for certiorari had been denied but before an application for rehearing had been filed, the Solicitor General, on May 24, 1966, notified the Court that Federal Bureau of Investigation agents had installed a listening device in Black's hotel suite. As a result of this disclosure, the Court issued the following statement:

> The Court desires a response from the Government in this case, not limited to, but directed toward (1) the kind of apparatus used by the Government; (2) the person or persons who authorized its installation; (3) the statute or Executive Order relied upon; (4) the date or dates of installation; (5) whether there is in existence a recording of conversations heard; (6) when the information concerning petitioner came into the hands of any attorney for the Government; and (7) to which ones, as well as (8) what use was made of the information in the case against petitioner. (Numerals supplied.)

That same type of information should be supplied here so that defendants may take whatever steps may be necessary in order for them to assert and protect their rights under the Fourth Amendment.

Conclusion

The motion for a bill of particulars should be granted with respect to each item requested.

Respectfully submitted,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel for Defendants Frangello and Visconti

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X

UNITED STATES OF AMERICA

- against -

73 Cr. 56 (MEL)

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

Defendants.

----------X

MOTION FOR A SEVERANCE UNDER RULE 8 BECAUSE OF MISJOINDER OR, IN THE ALTERNATIVE, UNDER RULE 14 BECAUSE OF PREJUDICIAL JOINDER

Defendants Frangello and Visconti move that Count 3 be severed from the remaining counts of the indictment on the ground that it is misjoined in the indictment in violation of Rule 8(a) of the Federal Rules of Criminal Procedure or, in the alternative and pursuant to Rule 14 of the Federal Rules of Criminal Procedure on the ground that its joinder is prejudicial to them.

Respectfully submitted,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel for Defendants Frangello and Visconti

MEMORANDUM OF LAW IN SUPPORT OF SAID MOTION FOR SEVERANCE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X

UNITED STATES OF AMERICA

- against - 73 Cr. 56 (MEL)

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

Defendants.

----------X

MEMORANDUM OF LAW IN SUPPORT
OF THE MOTION FOR A SEVERANCE

The inclusion of Count Three in the indictment violates Rule 8(a) of the Federal Rules of Criminal Procedure, which, in part, reads as follows:

> Joinder of Offenses. Two or more offenses may be charged in the same indictment ... if the offenses charged ... are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

We submit that these criteria, which are the only ones justifying a joinder of offenses, have not been met here.

The offenses joined in this indictment are gambling and perjury, which can hardly be said to be of the same or similar character. Nor can it be said that the two alleged offenses are based on the same act or transactions. Finally, the perjury is neither connected with the gambling activity, nor can it be said to have been a part of the gambling conspiracy. No allegation is made in Count One that the gambling conspiracy contemplated the

commission of perjury, nor is such perjury alleged as an overt act of the conspiracy.

For these reasons, the joinder violates Rule 8(a). A case quite similar to this is United States v. Claytor, et al., (S.D.N.Y.; 70 Cr. 1077). There, the first thirteen counts of a fourteen-count indictment all related to embezzlement from a labor union. Count 14, however, although somewhat connected with that union, alleged that one of the defendants named in the earlier counts had violated the rights of one of that union's members. Judge Croake ordered that Count 14 be severed from the indictment. The same result should occur here.

In the event that no misjoirder is found, the defendants request the Court to exercise its discretion under Rule 14 and sever Count Three from the remainder of the indictment on the ground that they would be prejudiced by being tried in a gambling case where evidence of alleged perjury by one other than themselves is received.

For the foregoing reasons, this Court should sever Count Three from the remaining counts of the indictment.

Respectfully submitted,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel for Defendants Frangello and Visconti

MOTION IN BEHALF OF DEFENDANTS FRANGELLO & VISCONTI TO DISMISS INDICTMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

- against - 73 Cr. 56 (MEL)

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

Defendants.

----------X

MOTION TO DISMISS THE INDICTMENT

The defendants Frangello and Visconti move, pursuant to Rule 12 of the Federal Rules of Criminal Procedure: (1) to dismiss Counts One and Two of the indictment upon the ground, as more fully set forth in the annexed memorandum of law, that the statute under which those counts are drawn violates the Constitution; and (2) to dismiss Count Two of the indictment upon the ground, as more fully set forth in the annexed memorandum of law, that the count violates Rule 7(c) of the Federal Rules of Criminal Procedure, in that it fails to contain a plain and concise statement of the essential facts constituting the offense charged.

Respectfully submitted,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel for Defendants Frangello and Visconti

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS INDICTMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

- against -

73 Cr. 56 (MEL)

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

Defendants.

----------X

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS INDICTMENT

A. As to Counts One and Two

The defendants move to dismiss both counts in which they are included on the ground that 18 U.S.C. §1955, the statute under which those counts are drawn, is an unconstitutional usurpation by Congress of the powers of the State to regulate purely local affairs. The Tenth Amendment reserved such powers to the States. Moreover, since the statute applies only to activities which are prohibited by state law, and since not all states prohibit gambling, it violates the Due Process Clause of the Fifth Amendment by treating unequally persons who perform the same acts.

As to the Tenth Amendment argument, we submit that gambling is a purely local affair which cannot constitutionally be regulated by the federal government under the guise of its unquestioned power to regulate interstate commerce. As Mr. Justice Frankfurter stated, dissenting in United States v. Kahriger, 345 U.S. 22 at 40 (1953), "Congress ... cannot constitutionally grapple directly with gambling in the states ...." For a contrary view, however, see the opinion of Judge Gurfein on pre-trial motions in

United States v. Politi, et al. (S.D.N.Y.; 71 Cr. 857). See also Perez v. United States, 402 U.S. 146, 150 (1971).

As to the Fifth Amendment argument, we point out merely that a federal statute, to pass muster under the Due Process Clause, must treat equally all those who engage in the same conduct. Here, however, a person taking bets in Reno, Nevada would be immune from a federal indictment, while one in Rye, New York might find himself on trial in Foley Square for the very same conduct. This, we submit, is not equal treatment. For a contrary view, however, see Judge Gurfein's opinion in United States v. Politi, supra.

B. As to Count Two

Count Two reads, in its entirety, as follows:

> From on or about September 1, 1970, and substantially continuously thereafter, up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS, the defendants, did unlawfully, wilfully and knowingly conduct, finance, manage, supervise, direct and own an illegal gambling business, to wit, a policy business (a) being in violation of the laws of the State of New York, Penal Law Sections 225.05 and 225.15, (b) involving five or more persons who conduct, finance, manage, supervise, direct and own a part of said illegal gambling business and (c) remaining in substantially continuous operation for a period in excess of thirty days and having a gross revenue of two thousand dollars ($2,000) in any single day.

We submit that this count runs afoul of the requirement that a criminal accusation contain a plain and concise statement of the

essential facts constituting the offense charged. Fed. R. Crim. P. 7(c).

We concede, of course, that Count Two spells out all the elements of the crime charged by tracking the words of 18 U.S.C. §1955. But the Supreme Court has held that an accusation which is not framed so as to inform a defendant with reasonable certainty of the nature of the charge against him is defective, even if it follows the language of the statute under which it is drawn. See Russell v. United States, 369 U.S. 749 (1962). We simply ask this Court to examine Count Two and to determine whether it "descends to specifics" as the Russell case says an indictment must. On the basis of the words of Count Two, can it fairly be said that Frangello and Visconti are able to know precisely what conduct they are charged with, so as to enable them to prepare a defense to the charge? We submit that the answer to that question is in the negative. For these reasons, Count Two must be dismissed. The Sixth Amendment to the Constitution requires that a defendant be informed of the nature of the charge against him. That has not been done here.

C. Conclusion

For the foregoing reasons, the indictment should be dismissed.

Respectfully submitted,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel for Defendants Frangello
and Visconti

MOTION IN BEHALF OF DEFENDANTS FRANGELLO AND VISCONTI FOR DISCOVERY AND INSPECTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

- against -

73 Cr. 56 (MEL)

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

Defendants.

----------Y

MOTION FOR DISCOVERY AND INSPECTION

Defendants Frangello and Visconti move, pursuant to Rule 16 of the Federal Rules of Criminal Procedure and the inherent powers of the Court, for an order granting them permission to inspect and copy or photograph the following items:

1. Any eavesdrop warrant obtained by any law enforcement agency with respect to the defendants or to any property in which they have a proprietary interest, together with the application for said eavesdrop warrant;

2. All documents reflecting the information sought in Paragraphs 16 and 17 of the defendants' request for a bill of particulars; and

3. All documentary evidence, including, but not limited to, photographs which the Government intends to introduce against the defendants upon the trial of this indictment.

Respectfully submitted,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel for Defendants Frangello and Visconti

MOTION IN BEHALF OF DEFENDANTS FRANGELLO AND VISCONTI TO SUPPRESS EVIDENCE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

UNITED STATES OF AMERICA

- against -

73 Cr. 56 (MEL)

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

Defendants.

----------X

MOTION TO SUPPRESS EVIDENCE

The defendants Frangello and Visconti move, pursuant to Rule 41 of the Federal Rules of Criminal Procedure, for an order suppressing as evidence all property seized from them at the time of their arrest under an arrest warrant on or about June 14, 1972, on the ground, as more fully set forth in the annexed memorandum of law, that there were, as a matter of law, insufficient grounds for the issuance of the arrest warrant.

Respectfully submitted,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel for Defendants Frangello and Visconti

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X

UNITED STATES OF AMERICA

- against - 73 Cr. 56 (MEL)

ARTHUR FRANGELLO and LOUIS VISCONTI, et al.,

Defendants.

----------X

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION TO SUPPRESS

Defendants move to suppress all evidence seized from them at the time of their arrests on or about June 14, 1972. Their arrests were conducted pursuant to an arrest warrant issued the previous day by a United States Magistrate. The ground of their motion is that the arrests and concomitant searches and seizures were illegal, having been based upon arrest warrants issued in the absence of a constitutionally sufficient showing of probable cause.

The papers upon which the warrants were issued are contained in the files of the Court and will therefore be but briefly summarized here. The affidavit of F.B.I. Agent Bob C. Reutler, which supplies the basis for the issuance of the warrants contains two types of information: statements given to the F.B.I. by allegedly "reliable" informants and the results of surveillance by the F.B.I. A reading of the reports of that surveillance will demonstrate that, standing alone, it could not possibly have justified the arrest of either defendant. The issuance of the warrants must be justified, if at all, on the basis of the statements made about the defendants by the F.B.I. informants.

We submit that the informants' statements were an insufficient basis for the warrants. We make no claim that what they said, if properly verified, would not provide probable cause. We claim, however, that the reliability of the informants was not sufficiently verified.

Informant Number One provided the F.B.I. with information about defendant Visconti. Agent Reutler's affidavit as to the informant's reliability reads as follows:

> Confidential informant number one has been supplying information concerning gambling offenses to local and federal authorities for longer than six months. This person, who has been contacted by the Federal Bureau of Investigation on a monthly basis, has given data which has been consistently corroborated and which has resulted in 8 arrests for gambling offenses.

Thus, the informant was known to the F.B.I. for only about six months. Although the information he had provided is said to have been corroborated, nothing is said about the nature of the information or whether it was such that it could have been provided only by one with special knowledge. Moreover, although it is alleged that the informant's information had resulted in eight gambling arrests, nothing is said as to the results of thoses cases or whether the information given ever resulted in a seizure of tangible evidence of guilt on anyone's part. In effect, the arrests mean no more than that the F.B.I. deemed the informant to be a "reliable" one. Nothing was shown to the Magistrate, however, which would substantiate the informant's reliability. Thus, the affidavit ran afoul of the guide lines laid down in Aquilar v. Texas, 378 U.S. 108.114 (1964) and Spinelli v. United States, 393 U.S. 410 (1969). The same can be said with respect to the second informant.

We submit, therefore, that the warrants were issued without a sufficient showing of probable cause. The arrests and concomitant searches were therefore illegal, and defendants' motion to suppress the fruits of the searches should be granted.

Respectfully submitted,

Patrick M. Wall

Patrick M. Wall
36 West 44th Street
New York, New York 10036
(212) 986-6688

Counsel for Defendants Frangello
and Visconti

GOVERNMENT'S BILL OF PARTICULARS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

-v- : BILL OF PARTICULARS

ANTHONY POLITI, et al., : 73 Cr. 56

Defendants. :

----------x

S I R :

Please take notice that the Government as and for its Bill of Particulars ordered by the Court on May 29, 1973, herein alleges;

1. The approximate dates each of the defendants entered the conspiracy alleged in the Indictment.

a. Anthony Politi - June 1968

b. Philip Politi - June 1968

c. Michael Roman - can't estimate

d. Eddie Washington - June, 1968

e. Leonard Harrison - can't estimate

f. Gerald Politi - July 1971

g. Robert Peters - can't estimate

h. Alphonse Cuzzo - " "

i. Harry Weis - " "

j. Lawrence Johnson " "

k. Arthur Frangello - June, 1968

l. Louis Visconti - June, 1968.

2. Individuals that each defendant met with in furtherance of the alleged conspiracy are:

a. Anthony Politi: Philip Politi
Robert Peters
Harry [illegible]s
Tom Collins
Michael Roman

Allan Handler

Arthur Frangello

Ray Shaw

Acrel Simon

Anthony Cannizarro - Peekskill P.O.

Eddie Washington

Louis Visconti

Earl Livingston

Gerry Politi

Robert Price

August Smrek

Marie Smrek Handler

Raymond Hanlon

Pasquale Maselli

William Doulin

b. Alphonse Cuzzo: Michael Roman

Beeman Bowman

Jean Bujese

Donna Cuzzo

Louis Visconti

Thomas Collins

c. Michael Roman: Lou Visconti

Allan Handler

David Weygant

Eileen Moran

Alphonse Cuzzo

Donna Cuzzo

Jean Bujese

Anthony Politi

Robert Peters

Ray Shaw

Phil Politi

Raymond Hanlon

Pasquale Maselli

Gerald Politi

d. Arthur Frangello: Anthony Politi
Lou Visconti
Allan Handler
Robert Peters
Leonard Harrison
Patricia Hyatt
Acrel Simon
Roy Hyatt
David Weygant
Eileen Moran
Albert Frangello
Marie Smrek Handler
Augie Smrek
William Doulin

e. Robert Peters: Anthony Politi
Phil Politi
Mike Roman
Harry Weis
Allan Handler
Art Frangello
Pat Hyatt
Roy Hyatt
Eugene Woska
Gerald Politi
Thomas Collins

f. Harry Weis: Anthony Politi
Phil Politi
Robert Peters
Tom Collins
Lawrence Johnson
Lou Visconti
Michael Camporeale
Pat Hyatt
Acrel Simon
Eugene Woska
Roy Hyatt

g. Philip Politi: Anthony Politi
Robert Peters
Harry Weis
Pat Hyatt
Michael Camporeale
Tom Collins
Acrel Simon
Allan Handler
Gerald Politi
Roy Hyatt
Michael Roman
Augie Smrek
Marie Smrek Handler

h. Gerald Politi: Patricia Hyatt
Michael Camporeale
Phil Politi
Robert Peters
Anthony Politi
Michael Roman
Roy Hyatt
Harry Weis

i. Louis Visconti: Mike Roman
Eddie Washington
Art Frangello
Leonard Harrison
Lonnie Johnson
Pat Hyatt
Roy Hyatt
Eileen Moran
David Weygant
Michael Camporeale
Allan Handler
Harry Weis
Acrel Simon
George Davis

Anthony Politi
Phil Politi
Ramon Casiano

j. Lawrence Johnson: Louis Visconti
David Weygant
Acrel Simon
Allan Handler
Harry Weis
Hoke Roberts
J. H. Carrington, Jr.
Eddie Washington
Leonard Harrison
Eileen Moran

k. Eddie Washington: Anthony Politi
Lou Visconti
Leonard Harrison
Pat Hyatt
Roy Hyatt
Allan Handler
Acrel Simon
George Davis
Dorothy Plair
Willie James Scott
Ramon Casiano

l. Leonard Harrison: Eddie Washington
Art Frangello
Pat Hyatt
Lou Visconti
Eileen Moran
David Weygant
Acrel Simon
George Davis
Roy Hyatt
Lawrence Johnson
Hoke Roberts
Willie James Scott

Beeman Bowman.

3. The fingerprint expert the Government intends to call to the stand is:

Bob Ratliffe.

4. Volume of Policy Operation

a. The total wagering of this policy operation for June 1, 1972 of $15,764.27 was determined by analyzing and totaling the adding machine tapes and entries in the records that were available as set forth in the Federal Bureau of Investigation Laboratory Report dated July 13, 1972. Decimal points followed by 2 digits were present on these tapes so dollar amounts were interpreted in the normal manner.

b. Total wagering for August 29, 1972 of $13,591.00 as set for the in Federal Bureau of Investigation Report dated October 13, 1972 was determined by totaling the figures available in ledger sheets for that date. This figure compared exactly with figures obtained from adding machine tapes seized at a separate location. The raw policy slips were also available and the numbers 20, 75, 100, 500 following a 3 digit number were interpreted as $.20, $.75, $1.00, and $5.00 bets respectively.

c. The 2 above statements are examples of the 2 primary methods utilized by Federal Bureau of Investigation to compute daily handle.

5. Anthony Cannizarro is alleged to be a co-conspirator.

PAUL J. CURRAN
United States Attorney for the
Southern District of New York

By: _____
JOEL M. FRIEDMAN
Special Attorney
U. S. Department of Justice

GOVERNMENT'S BILL OF PARTICULARS
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

-v- : BILL OF PARTICULARS

ANTHONY POLITI, et al., : 73 Cr. 56

Defendants. :

S I R :

Please take notice that the Government as and for its Bill of Particulars heretofore consented to, herein alleges;

1. Eileen Moran, of New Windsor, N.Y., David Weygant of New Windsor, N. Y., Robert Price, of Newburgh, N. Y. and Acrel Simon, of Newburgh, N.Y., are co-conspirators not named in the indictment, who are known at this time to the Government.

WHITNEY NORTH SEYMOUR, JR.
United States Attorney for the
Southern District of New York

By: _____
JOEL M. FRIEDMAN
Special Attorney
U. S. Department of Justice

AFFIDAVIT OF JOEL M. FRIEDMAN IN OPPOSITION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

- v - : AFFIDAVIT IN OPPOSITION

ANTHONY POLITI, et al., : 73 Cr. 56

Defendants :

----------x

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

JOEL M. FRIEDMAN, being duly sworn, deposes and says:

1. I am a Special Attorney with the United States Department of Justice, assigned to the prosecution of the above captioned matter, and as such am familiar with the facts herein.

2. I have spoken personally with Herald Price Fahringer, attorney for defendant MICHAEL ROMAN, and it is stipulated by and between the defendant MICHAEL ROMAN and the Government:

(a) With respect to the affidavit in support of the search conducted at 77 Broadway, Parkridge, New Jersey on June 2, 1972, the affiant to said affidavit had verified the accuracy of information attributed to the informant denominated as informant #1 by personally speaking to him. With respect to all other informants referred to in said affidavit, the affiant to said affidavit had spoken to another Federal Bureau of Investigation agent who personally told him that he had verified the accuracy of the information set forth by personally speaking to the informant.

(b) With respect to the affidavit in support of the search conducted at 94 Garden Street, Poughkipsee, New York, on June 14, 1972, the affiant to said affidavit had verified the accuracy of all information attributed therein to informants, by personally speaking to said informants.

(c) With respect to the affidavit in support of the search conducted at 15 Eastview Avenue, Yonkers, New York on August 29, 1972, the affiant to said affidavit had verified the accuracy of information attributed to the informant denominated as informant #1 by personally speaking to him. With respect to all other informants referred to in said affidavit, the affiant to said affidavit had spoken to another Federal Bureau of Investigation agent who personally told him that he had verified the accuracy of the information set forth by personally speaking to the informant.

WHEREFORE, the Government respectfully requests that defendant's motions to suppress be denied since the procedures followed by the Federal Bureau of Investigation were proper.

JOEL M. FRI
Special Attorney
U. S. Department of Justice

Subscribed and Sworn to before me
this day of , 1973.

MOTION IN BEHALF OF DEFENDANT ROMAN

UNITED STATES DISTRICT COURT **(Filed March 7, 1973)**
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff

vs.

NOTICE OF MOTION

Indictment No.
73 Cr. 56

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON, and HARRY WEIS,

Defendants

SIR:

PLEASE TAKE NOTICE, that upon the annexed affidavit of HERALD PRICE FAHRINGER, duly sworn to on the 4th day of March, 1973, and upon the indictment and all other proceedings had herein, the undersigned will move this Court on behalf of the defendant, MICHAEL ROMAN, at a Criminal Term to be held in the Federal Courthouse in the City of New York, State of New York, on the 26th day of March, 1973, or as soon thereafter as counsel can be heard for orders granting the following relief:

I. Discovery and Inspection pursuant to Rule 16 of the Federal Rules of Criminal Procedure;

II. Delivery to the defendant of all evidence favorable to him under the authority of Brady v. Maryland, 373 U.S. 83;

III. A Bill of Particulars pursuant to Rule 7(f) of the Federal Rules of Criminal Procedures;

IV. A hearing to determine the admissibility of any statements taken from the defendant and a motion to suppress them in the event they are acquired illegally. Miranda v. Arizona, 385 U.S. 436;

V. A hearing to determine the admissibility of certain evidence seized from the defendants and an order suppressing the evidence illegally seized pursuant to Rules 41(f) and 12 of the Federal Rules of Criminal Procedure;

VI. Disclosure of government informers;

VII. A hearing to determine whether any evidence obtained from electronic eavesdropping will be used in this trial and an order suppressing said evidence pursuant to Rules 12 and 41(f) of the Federal Rules of Criminal Procedure;

VIII. An order dismissing the indictment on the grounds that §1955 of Title 18 is unconstitutional;

IX. An order granting inspection of the grand jury minutes pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure;

X. An order dismissing the indictment based upon an inspection of those minutes;

XI. An order dismissing one of two counts in the indictment on the grounds that the government has misjoined two offenses in a single indictment;

XII. An order granting a severance and separate trial for this defendant under Rule 14 of the Federal Rules of Criminal Procedure.

XIII. An order granting such other and further relief as is just under all the circumstances of this case.

DATED: March 4, 1973
Buffalo, New York

Yours, etc.,

HERALD PRICE FAHRINGER, ESQ.
One Niagara Square
Buffalo, New York 14202
(716) 856-8400

Attorney for the Defendant
MICHAEL ROMAN

TO: JOEL FRIEDMAN, ESQ.
Special Attorney
U.S. Dept. of Justice
26 Federal Plaza
New York, New York 10007

AFFIDAVIT OF HERALD PRICE FAHRINGERS IN SUPPORT OF SAID MOTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AFFIDAVIT

Indictment No.
73 Cr. 56

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON, and HARRY WEIS,

Defendants.

STATE OF NEW YORK)
COUNTY OF ERIE)
CITY OF BUFFALO) ss.

HERALD PRICE FAHRINGER, being duly sworn, deposes and says:

1. He is an attorney duly licensed to practice law in the State of New York. HERALD PRICE FAHRINGER is a member of the firm of Lipsitz, Green, Fahringer, Roll, Schuller and James with offices located at One Niagara Square, Buffalo, New York.

2. The defendant was charged by an Indictment returned by the United States District Court for the Southern District of New York charging MICHAEL ROMAN with violations of §§371, 1955, and 2 of Title 18 of the U.S.C. Annexed hereto and marked Exhibit "A" is a copy of that Indictment. Annexed hereto and marked Exhibits "B", "B1" and "B2" are copies of the applicable statutes. This omnibus motion is made on behalf

of the defendant, MICHAEL ROMAN, and all references to the term "defendant" refer solely to MICHAEL ROMAN unless otherwise indicated.

3. Shortly after indictment the defendant, MICHAEL ROMAN, was duly arraigned in the United States District Court for the Southern District of New York and entered a plea of not guilty to the charges contained in the annexed indictment and was given until March 7, 1973 to file motions addressed to the within Indictment and the propriety of these proceedings.

4. The indictment contains three counts, two of which charge the defendant, MICHAEL ROMAN, with crimes. Reduced to its essentials it in essence states:

COUNT I

From on or about September 1, 1970, and continuously thereafter up to and including the date of the filing of this indictment, the defendant MICHAEL ROMAN, did unlawfully conspire, with others, to commit offenses against the United States, namely: to conduct, finance, manage, supervise, direct or own an illegal gambling business, in violation of §225.05 and §225.15 of the Penal Law of the State of New York, in violation of §1955 of Title 18 of the United States Code; and in furtherance of said conspiracy in order to effectuate it the defendants committed, the following:

OVERT ACTS

1. On or about January 26, 1971, ANTHONY POLITI, MICHAEL ROMAN and PHILIP POLITI were at the Bobbin Inn Motel, Rockland County, New York.

2. On or about February 22, 1972, LOUIS VISCONTI met with Michael Camporeale at the A&P parking lot, Rt. 52, Beacon, New York.

3. On or about March 21, 1972, ANTHONY POLITI met with ARTHUR FRANGELLO and ROBERT PETERS in Vails Gate, New York.

4. On or about March 30, 1972, Michael Camporeale met with Patricia Hyatt in Yonkers, New York.

5. On or about April 27, 1972, Michael Camporeale met in an automobile with HARRY WEIS in the vicinity of Route 52 in Dutchess County, New York.

6. On or about April 27, 1972, Michael Camporeale deposited a parcel containing policy slips in a bush located behind the Great Eastern department store in Yonkers, New York.

7. On or about April 27, 1972, GERALD POLITI retrieved the parcel referred in OVERT ACT 6.

8. On or about May 1, 1972, ANTHONY POLITI, PHILIP POLITI, HARRY WEIS and ROBERT PETERS met in Yonkers, New York.

9. On or about June 2, 1972, MICHAEL ROMAN was at 77 Broadway, Park Ridge, New Jersey, in possession of the policy records and slips reflecting bets for a portion of the illegal policy gambling business on June 1, 1972, in the total amount of $15,764.25.

10. On or about June 14, 1972, LEONARD HARRISON and EDDIE WASHINGTON were at 199 South Street, Newburgh, New York.

11. On or about June 14, 1972, LOUIS VISCONTI drove his automobile in the vicinity of River Road, Newburgh, New York.

12. On or about August 29, 1972, GERALD POLITI placed an envelope containing policy records in a telephone booth located near a Gulf Station located at the intersection of Saw Mill River Road and Tompkins Avenue, Yonkers, New York.

13. On or about August 29, 1972, ANTHONY POLITI, MICHAEL ROMAN, and ROBERT PETERS travelled in an automobile to the Gulf Service Station referred to in OVERT ACT 12.

14. On or about August 29, 1972, ROBERT PETERS retrieved the envelope containing policy records referred to in OVERT ACT 13.

COUNT II States in Essence

From on or about September 1, 1970, up to and including the date of the filing of this indictment, the defendant MICHAEL ROMAN unlawfully did conduct, finance, manage, supervise, direct and own an illegal gambling business in violation of §§225.05 and 225.15 of the Penal Law of the State of New York all of which was in violation of §1955 of Title 18 United States Code.

This affirmation is made in support of an application for a number of different forms of relief. The affidavit is divided accordingly under a number of different subheadings, such as "Discovery and Inspection", "Brady Material", etc. Subheadings are labeled A,B,C, etc. and under each of the subheadings the specific request for relief or allegations in support of said relief are numbered 1,2,3,4, etc. There follows an index of the various forms of relief requested, together with the page number upon which they appear.

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A. Discovery and Inspection

Defendant moves, pursuant to Rule 16 of the Federal Rules of Criminal Procedure, for an Order permitting him to inspect and copy or photograph the following items which are in the possession, custody or control of the government on the ground that they are material to the preparation of his defense and that his request for them is reasonable. It is further requested, pursuant to subdivision (e) of that rule, that any disclosures made by the government be made solely to the Court and to defense counsel, and that contents of any materials so disclosed not be made public or available to any other person, and that disclosure so ordered by this Court be made outside the presence of any representatives of the government. This request is made so that there is no violation of the attorney's work product rule through observation by the government of the manner in which the defense is prepared in this case. Thus, discovery is requested as to the following items:

1. All telephone company toll tickets reflecting any telephone calls which the government will allege were made in furtherance of the conspiracy.

2. All items taken from the defendants' homes, automobiles, places of business, or instumentality by federal or state agents acting either with or without a search warrant.

3. All reports of any agents of the government which relate statements made by the defendant before, during or after the conspiracy with respect to any of the matters contained in the indictment or related thereto.

4. All mechanical or electronic recordings and tapes that contain thereon any of the defendants' conversations which were made through the use of an electronic eavesdropping device.

5. All mechanical or electronic recordings and tapes of any statement or conversations which occurred at any place or through any facility owned or leased by the defendants or in which they had a proprietary interest, which in any way relates directly or indirectly to the defendant, [redacted].

6. All memoranda, logs, reports, records, notes, summaries, transcriptions, TWX communications, airtels and written communications of any nature whatsoever which were made by any employee or agent of the government with respect to the statements or conversations to which reference is made in paragraphs 4 and 5 above.

7. A sample of each type of electronic eavesdropping device which was utilized to obtain the matters to which reference is made in paragraphs 4 and 5 above.

8. All documents, directives, orders, circulars or memoranda pertaining to the use of electronic eavesdropping devices and the information received therefrom which were made

or issued by any government agent with respect to the statements or conversations to which reference is made in paragraphs 4 and 5 above.

9. All documents, directives, orders or memoranda which purport to authorize the installation of any electronic device that was used as set forth in paragraphs 4 and 5 above.

10. All applications and orders secured under the authority of 18 U.S.C. §2518 pertaining to the electronic surveillance described in paragraphs 4 and 5 above, and pertaining to said intercepted telephonic conversations.

11. Copies of all authorizations and affidavits in support thereof, issued by the attorney general or the assistant attorney general designated by him.

12. The contents of all such statements and conversations thus overheard, and all memoranda prepared in connection therewith.

13. Copies of any and all reports or the results of any scientific tests or experiments made in connection with this particular case, including but not limited to any voice recordings, handwriting samples, photographs or other such material in the possession, custody or control of the government, including any reports on experts relating to the materials which form the basis of this indictment.

14. Copies of any and all photographs, papers, documents, tangible objects or other material showing scenes, places of meetings, or any other area where it is claimed that the defendants conspired, or any other photographs, diagrams or other graphic representations which in any way relate to this indictment.

15. Copies of any photographs, pictures, or any other representation of the defendants allegedly meeting at any place or in each other's company in connection with any aspect of this case.

16. In the event these defendants testified before the grand jury which returned the indictment herein, a copy of their grand jury testimony is requested.

17. In the event any of the other defendants testified before the grand jury, a copy of their grand jury testimony is requested.

18. Any and all evidence of every kind or nature which may be in any way favorable to the defendants, which may be either exculpatory, or non-incriminatory, or as previously indicated, favorable to them in any manner which is in some way related to this case. (This application is also made under that heading which refers to Brady material.)

19. All information obtained through electronic surveillance conducted by any other governmental agency, whether

state or federal, of any of the defendants or any other persons who may have communicated with the defendants wherein conversations to which these defendants were a party were overheard; or conversations which were conducted on or in any of the defendants' premises, whether private or business, where other persons were overheard; or any instance where the defendants or any of the co-defendants were overheard.

20. All information or evidence obtained by any other police agency to which the government has had access which in any way relates to this indictment or the investigation which preceded the return of this indictment.

21. Any and all copies of any and all search warrants, arrest warrants, or eavesdropping warrants, and any and all supporting affidavits or depositions thereto, used in obtaining any of the information or evidence referred to in the preceding paragraphs and which in any way constituted a basis for the within indictment, whether issued by a state or federal agency.

22. The names and addresses of all expert witnesses employed by the People in connection with any of the counts of this indictment regardless of whether such witnesses will be called by the People to testify.

23. The names and addresses of all other witnesses interviewed by the People or any agent of the People in connection with any of the counts in this indictment, regardless of whether

such witnesses will be called by the People to testify.

24. The government be required to disclose the conviction records, if any, of any of the prosecution witnesses and co-defendants.

25. With respect to those items of which the Court in its discretion may not permit discovery by the defense, it is requested that the Court, in the interest of justice, and the administration of the courts, require the government to disclose the existence of such items and whether or not those items have been used in the investigation and preparation of this case, and further, whether or not the government intends to use such items at the trial.

26. Counsel specifically reserves the right to make any additional requests for material covered by Rule 16 at the time this motion is argued.

B. Brady Material

1. The defendant moves this Court for an order compelling the prosecution to disclose and divulge to the defendant any evidence in its possession favorable to the accused including but not limited to statements or grand jury testimony, witnesses, books, papers, reports, photographs or any other tangible items of evidence in the custody or control of the prosecution or any government agencies working under the supervision of the government, favorable to the defense. This demand is made under the authority of Brady v. Maryland, 373 U.S. 83.

2. The principal impulse for the Brady rule grew out of an acknowledgment by the Supreme Court that a defendant's facilities for gathering evidence are disproportionate to that of the government's. Since most defendants have neither the man power nor the resources available to the government in its investigation of crime, the prosecution is obliged to share the proceeds of its discoveries with the defense where that evidence is favorable to the latter's cause. The duty of law enforcement agencies to conduct an impartial investigation and collect all the evidence relating to the commission of an offense is manifest. When a person is ultimately charged with a crime the findings of the state should be just as available to him as to the prosecution. The government's responsibility to the defendant is no less than the duty it owes to any other member of society for the investigation of crimes should be designed not only to

3. Upon information and belief a number of witnesses testified before the Grand Jury who gave evidence favorable to the defendant in this case. Under the Brady doctrine that evidence should be delivered to counsel. We suspect other witnesses may have been interviewed by the government and gave statements favorable to the defendant's cause. Those statements should be made available to the defense. Upon information and belief, various witnesses gave testimony which is either in the possession or control of the government which was favorable to the defendant, MICHAEL ROMAN. Upon information and belief, these witnesses have testified or are able to testify that the defendant is not an owner, director, supervisor, manager or that he does not finance or conduct an illegal gambling business.

4. It is imperative that this evidence be delivered before trial so that it might be effectively used. In order to effectively exploit any Brady material which may exist, it is essential that the defense be given this material far enough in advance of trial so that other investigatory leads may be pursued in sufficient time to permit a full preparation of the defendant's case.

5. If the defense is forced to wait until the time of trial, it may be too late for it to contact the witnesses, interview them, and arrange for their being subpoenaed on behalf of the defense. Therefore, it is imperative that the evidence

in the prosecution's file which is favorable to the defense be disclosed immediately so that arrangements can be made for these witnesses to be called during the course of this trial.

6. The disclosure and production requested here should be made without regard to whether or not the evidence to be disclosed and produced is deemed to be admissible at the trial of this action. The disclosure and production should include, but not be limited to, the following evidence:

(1) Any written or recorded statements, admissions or confessions made by any witness or co-defendant which may be exculpatory, non-incriminatory, or otherwise favorable to this defendant, or any summaries, synopses, notes, memoranda or resumes thereof, regardless of whether such statements were reduced to writing and regardless of whether the prosecution intends to use such statements at trial.

(2) The names and addresses of such witnesses and the names and addresses of any other witnesses who might be favorable to the defendant.

(3) Any and all written statements made by any witnesses who have been interviewed by an agent for the prosecution in connection with the subject matter in this case and whom the prosecution presently does not intend to call at trial, regardless of whether such statement has been signed or otherwise adopted or approved by said witness; or any stenographic, mechanical, electrical, or other recording, or a transcript thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent for the prosecution and recorded contemporaneously with the making of such oral statement.

(4) The names and addresses of all persons who may have some knowledge of the facts of the present case.

(5) The criminal records or any list or summary reflecting the criminal records of all persons the prosecution intends to call at trial.

(6) Any notes, memoranda, summaries, reports or statements of any kind prepared by agents of the prosecution in connection with the investigation of this case.

(7) Any notes, memoranda, summaries, reports or statements of any kind prepared by persons other than agents for the prosecution in connection with the investigation of this case.

7. This rule announced by the United States Supreme Court in Brady v. Maryland, supra, and which the defendant asks this court to enforce, should impose no hardship on the prosecution in that we are only asking for that evidence which is favorable to the defense, and thus, if it involves witnesses, it is expected that they would be friendly toward us. Thus, the exaggerated claims usually made by the prosecution that witnesses will be threatened is inappropriate here.

8. In order to equitably implement this rule, it is requested the prosecution's file be produced in court and examined by the court and defense counsel so that a fair determination can be made of that material which is favorable to the defense. The decision of what material exists in the prosecution file favorable to the defense cannot be left to the prosecution, but must be supervised by the court.

9. Counsel specifically reserves the right to make any additional requests for material covered by Brady v. Maryland, supra, at the time this motion is argued, or at such other time as the existence of such material shall become known to counsel or the defendant.

10. It is respectfully requested that the Court specifically admonish the prosecution that they have a duty to disclose any evidence favorable to the defendant and that such duty is a continuing duty.

C. Bill of Particulars

Pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure, the defendant moves for an Order compelling the prosecution to file with the Court and serve upon the defendants a Bill of Particulars relating to this indictment and particularly setting forth the following:

With Respect to Court I

O (1) State where, other than in this jurisdiction, the conspirators agreed with each other to violate the sections.

G-C Conp (2) State the names and addresses of those other participants in the conspiracy whose names were unknown at the time of the filing of the indictment, but have subsequently become known, and so state with respect to any participant whose name becomes known subsequent to the disposition of this motion but prior to the end of the trial herein.

O - Non-Co

O - addresses

O (3) State the approximate date upon which the defendants are alleged to have become members of the conspiracy.

O (4) State the names of the other conspirators with whom the defendants are alleged to have conspired or dealt with directly.

(5) State the name, present street address and street address at the time of the alleged participation in the conspiracy, of all co-conspirators, including co-conspirators who were not known to the prosecution at the time the indictment was returned, but since have become known, and so state with respect to any participant whose name becomes known subsequent to the disposition of this motion but prior to the end of the trial herein.

C - none

O - address

Allowed

(6) State the name and street address at the time of the alleged participation in the conspiracy and present street address, of all alleged co-conspirators not named in the indictment but known to the prosecution at the time of the indictment.

(7) State the earliest date any documentary proof in the custody or control of the prosecution links the defendant to the claimed conspiracy.

(8) State the period of time in which it is claimed the defendant was a participant in the claimed conspiracy.

(9) State approximately when, where, and in what manner the defendant became a member of the conspiracy.

(10) State approximately when and where and in what manner the other defendants became members of the claimed conspiracy.

(11) State with which alleged co-conspirators it is claimed the defendant entered into the claimed conspiracy.

(12) State the date or dates, times and places (by street address, if known), of the making of the claimed conspiracy.

(13) State the time, place, persons present and the nature of any overt acts which could have been included in the indictment but were not and to which acts the prosecution intends to offer evidence upon the trial of this indictment.

(14) State whether or not the overt acts alleged were had at the instance of the prosecution, its employees, agents or servants, or at the instance of any official, agent or servant of any state of the United States or a political subdivision thereof.

(15) State the last date upon which any act in furtherance of the conspiracy was performed by any of the conspirators, whether named in the indictment or not, and state further the nature of the acts and by whom they were performed.

(16) State whether each of the witnesses who testified before the grand jury testified solely on the basis of his own personal knowledge and if not, state further (a) who it was that gave the hearsay testimony, (b) the name of the person with actual knowledge of the facts as to which the hearsay testimony was given, and (c) the reason why the prosecution failed to produce before the grand jury the person with actual knowledge of those facts.

(17) State the name of any defendant who, either personally or through counsel, has cooperated or is cooperating with the prosecution in connection with this case and whom the prosecution expects to seek to sever out of the case and call as a witness upon the trial.

(18) State whether the prosecution has in its possession or control any reports or any statements made by the defendant during the period covered by the indictment and up until the filing thereof to any person who at the time the statement was made was an agent of the prosecution.

Granted (19) State whether the defendant is charged as an aider and abettor, and if so, state how defendant is claimed to have aided and abetted the alleged offense or offenses.

Granted (20) State the name and address of all persons who it will be claimed by the prosecution acted with or in connection with the defendant.

Denied (21) State with particularity the manner in which the claimed offense or offenses were performed.

(22) State the act or acts alleged to have occurred which constitute the offense set forth in the indictment.

(23) Set forth the time of day and place where the act or acts constituting the offenses allegedly took place.

(24) State the names and addresses of all persons who had knowledge of the facts relevant to the transactions in any way connected with the offenses charged, and in particular state the

names of any other persons who the prosecution will claim were the victims of the offense or offenses relating to this indictment.

(25) State the date, the hour and the place the various offenses charges are claimed to have occurred.

(26) State whether any person was offered, promised or obtained any money or property by reason of the offenses charged in the indictment; if so, state (a) the identity of the person who offered, promised or received the money or property, (b) the amount of money or nature and value of the property offered, promised or obtained, (c) the name of the person or persons offered, promised or transferred the money or property, (d) the date said money or property was offered, promised or received, and (e) the name and present street address of any person claimed to be present at the time of any payment offered or promised.

(27) State the act or acts it will be claimed the defendant did perform or attempted to perform to facilitate the performance and carrying on of these offenses charged.

With Respect to Court II

(1) State in what manner it is claimed that the defendant, MICHAEL ROMAN, unlawfully conducted an illegal gambling business.

(2) State specifically on what day or days it is claimed that the defendant committed the acts charged in the indictment.

(3) State specifically how it was determined that the alleged gambling activity produced a gross revenue of $2,000.00 in any single day.

With Respect to the Entire Indictment

(1) State whether any other persons named as participants in any of the transactions or acts described in this indictment solicited, importuned or requested the defendant to commit any of the acts with which he is charged.

(2) State whether any of such persons acted in any way on behalf of, or after intervention by, any representative of the government during any part of the transactions or acts charged in this indictment.

(3) State the names and addresses of those who so acted.

(4) State the number of persons constituting the Grand Jury which returned this indictment and the number present when the indictment was returned.

(5) State the number of Grand Jurors voting to return the indictment.

(6) State whether the court supplied information to the Grand Jury regarding the statutes of Title 18 of the United States Code construed in this case and, if so, the precise nature of that information.

(7) State whether any legal advice was given by the United States Attorney to the Grand Jury and if so set forth the transcript of this legal advice, if recorded, or the detailed substance of this legal advice if unrecorded.

(8) State whether the People have in their possession or control any reports of any statements made by the defendant during the period covered by the indictment or up until the filing thereof to any person who, at the time the statement was made was an agent of the People.

(9) State whether each of the witnesses who testified before the Grand Jury testified solely on the basis of his or her own knowledge and if not, state further (a) who it was who gave the hearsay testimony, (b) the name of the person or persons with actual knowledge of the facts as to which the hearsay testimony was given and (c) the reason why the prosecution failed to produce before the Grand Jury the person or persons with actual knowledge of those facts.

(10) State whether the indictment in its final form was drafted by the United States Attorney's office before the Grand Jury voted to return the within indictment.

yes (11) State whether the indictment in its final form was either exhibited or read verbatim to each of the Grand Jurors who voted to return it before that vote was taken.

No answer (12) State whether an agent of the government summarized the testimony and/or evidence before the Grand Jury or whether individual fact witnesses appeared before the Grand Jury and testified before the same.

1. The information sought to clarify the indictment is within the particular knowledge of the United States Attorney and cannot be obtained by means other than legal process.

2. The information requested is not of an evidentiary nature and, without it, the defendant cannot adequately prepare or conduct his defense.

3. At the time of the hearing of this motion for a Bill of Particulars, counsel for the defense may request other details to be furnished which are relevant to this indictment and which are necessary for the proper preparation of this defense.

D. Statements of the Defendant

1. In the event the prosecution will offer in evidence against the defendant any statements, either oral or in writing, a copy of those statements has already been requested. However, in the event the prosecution has such a statement but will not offer it in evidence, there is still the issue of whether any leads were obtained as a result of the acquisition of that statement. Therefore, a full and complete hearing is requested to investigate the facts and circumstances surrounding the acquiring of any such statements.

2. A hearing is required to determine whether the statement was taken in the absence of defense counsel; whether it was made before or after the defendant's arraignment, and whether the giving of any statement was preceded by the Miranda warnings.

3. In the event the government will offer in evidence against the defendant any statements, a full and complete hearing is requested to investigate the facts and circumstances surrounding the taking of a statement from the defendant or any statements which were acquired as a result of eavesdropping.

4. A hearing is necessary in order to determine whether the statement was acquired or overheard in such a manner as to violate the defendant's rights under the United States Constitution or United States statutes or under cases decided by our federal courts.

5. A hearing is also required in order to determine whether any leads or further information was acquired as a result of the taking of a statement from the defendant.

6. If any statement was taken in violation of the defendant's rights and privilege against self-incrimination as construed by our federal courts, we will ask that it be suppressed at the conclusion of the hearing.

E. Search and Seizure

1. In connection with this case there were a series of searches and seizures of property conducted both by the Federal Government and State authorities at different times and different places. Consequently, under this branch of our motion we have listed all searches and seizures in chronological order.

2. Since the Government has charged the defendant, MICHAEL ROMAN, with conspiracy to violate §1955, he has standing to complain of the search of the co-conspirators or co-defendants. In other words, since the Government claims that during the course of the conspiracy each defendant was acting as an agent of the other and were, in fact, partners in the offense, it logically follows, under such an agency relationship, that each defendant has standing to complain of another defendant's search.

3. Consequently, the defendant, MICHAEL ROMAN, moves to suppress the evidence secured either from himself or from another co-defendant or co-conspirator on the ground that it was unlawfully acquired in violation of his or the other's Fourth Amendment right against an unreasonable search and seizure.

4. The defendant MICHAEL ROMAN joins in all other motions made on behalf of any of the co-defendants herein addressed to the propriety of any search and seizure or eavesdropping, unless such motions are inconsistent with the specific allegations made by the defendant MICHAEL ROMAN herein.

5. In various instances the defendant MICHAEL ROMAN had been given incomplete search warrant documents, in that some are accompanied by an affidavit in support thereof and some are not. Also, many of the affidavits are purportedly altered by the insertion or deletion of various words and/or phrases. In that these warrants are in such disarray, the defendant reserves the right to attack any portions thereof which it is subsequently revealed are different in content than those he possesses at this time.

(a) Search of Phil Politi, Bobin Country Club, and a 1966 Green Jeep, PR7417 New York; a copy of which search warrant is attached to these papers as Exhibit C

1. At the outset, the defendant MICHAEL ROMAN specifically joins in all motions made by all other co-defendants, whether in state or federal court, with respect to this search warrant to the extent that such motions are not inconsistent with the allegations herein.

2. Upon information and belief the proceeds of this illegal search were turned over to the federal authorities, and therefore any subsequent investigations which were conducted as a result thereof are fatally tainted.

3. The affidavit in support of this search warrant filed by Robert V. Parkhurst does not in any way establish sufficient probable cause for the issuance of said search warrant, and therefore any search conducted pursuant thereto was totally and completely void, and any evidence or clues or leads obtained therefrom must be suppressed.

4. The Parkhurst affidavit relies largely on guilt by association with various conclusory statements outlining alleged convictions had against numerous people mentioned therein. It is submitted that such statements in no way support a finding of probable cause for the issuance of a search warrant.

5. Parkhurst makes numerous conclusory statements that Anthony and Phil Politi, Harry Weis, Robert Peters and

Sam Mangano are known "pickup men and collectors," but nowhere does he state the source of this information, nor sufficient facts or circumstances upon which a belief may be based. Parkhurst states on numerous occasions throughout the affidavit that Philip Politi was observed receiving white envelopes or papers, but nowhere is it stated what the contents of these white envelopes are or what may be contained on the papers.

6. Parkhurst states that during December of 1970 Harry Weis, Robert Peters, Sam Mangano and Anthony Politi were observed handing envelopes to Phil Politi, but nowhere does the affidavit state the source of this information or what was allegedly contained in the envelopes.

7. The affidavit goes on to state that Phil Politi was observed frequenting a bungalow in Rockland County and that Parkhurst believed that he was carrying a bag containing gambling records, but nowhere does the affidavit state how it was determined that Politi was frequenting this bungalow, nor how it was determined that this bag contained gambling records.

8. Throughout the remainder of the affidavit, Officer Parkhurst makes nothing more than bald assertions that numerous people, particularly Philip Politi, were observed making alleged stops and trips to Rockland County. Of particular significance is that each time Parkhurst refers to "surveillance" or that Philip Politi was being "observed," he in no way indicates by whom such observations or surveillance were being conducted. Also, he does not indicate how he was given

this information, whether it was by casual romor in the underworld or whether it was the result of mere hearsay or double hearsay.

9. Parkhurst states that Philip Politi has been operating a 1966 Jeep, PR7417 New York, and has been seen driving his Jeep to various locations, including the bungalow in question herein. Nowhere in the affidavit does Parkhurst allege that anything more than innocuous white envelopes were ever seen in the Jeep. Moreover, Parkhurst states that the Jeep was only seen parked near the bungalow in question.

10. Therefore, even a casual reading of this affidavit clearly demonstrates that it is based completely on hearsay, multiple hearsay, or rumor. Officer Parkhurst does not at any time claim personal observation or personal receipt of the information he alleged.

11. It is well settled under both federal and New York state law that the facts and circumstances indicating the source of all information which was not acquired personally must be fully stated in an affidavit. This is so that a magistrate may make a determination as to whether or not probable cause exists for the issuance of the warrant. Clearly this requirement has not been met and therefore this warrant must be held to be invalid.

12. Therefore, the Parkhurst affidavit is insufficient to establish probable cause for the search in that (1) there is no indication that people who informed Parkhurst are

credible, (2) there is no indication that the information itself is credible, and (3) there are no independent surveillances which corroborate the alleged information supplied by the unnamed sources.

12. This warrant must also be held to be invalid in that all of the activities alleged in the Parkhurst affidavit indicate nothing more than innocuous conduct and are not sufficient to form a belief that crimes are being committed.

(b) Search of a 1971 Black Pontiac, 4376TZ, and a 1964 Blue Oldsmobile Convertible, 5767YX; copies of which search warrants are attached to these papers as Exhibits D and D1

1. This search warrant was issued on the 22nd day of November 1971 on the basis of an affidavit submitted by investigator Daniel J. Reidy of the New York State Police, and authorized a search of the above-named vehicles.

2. Officer Reidy's affidavit states that on numerous occasions he has observed the above-mentioned vehicles and their operators, specifically Philip Politi, driving along the same routes and meeting at various places along the way.

3. It is submitted that such conduct is not particularly indicative of criminal conduct and that any number of reasons aside from alleged gambling activities could be given for such driving pattern.

4. Moreover, at no time did Officer Reidy state what facts and circumstances led him to believe that these "white envelopes" contained gambling receipts.

5. The only conclusion that can be reached on the basis of this affidavit is that this search warrant was issued on the mere suspicions of Officer Reidy, which alone can never justify the invasion of a person's constitutional rights.

6. There is no allegation that Politi was meeting with "known gamblers" or that such activity at this particular time and place was indicative of any particular gambling operation.

7. Therefore, it is clear that the basis of this affidavit is mere suspicion and not probable cause. Also to be noted is that Reidy alleges as significant the fact that Politi was arrested on January 26, 1971. It is submitted that this is also the date the search warrant discussed above was executed, and therefore it is believed that the proceeds of this illegal search have been employed by Officer Reidy.

8. For these reasons, and other which will be supplied at the time this motion is argued, it is submitted that this search warrant is fatally defective, and any proceeds thereof must be suppressed.

(c) The Search of the Premises Known as 94 Garden Street, Poughkeepsie, New York; a copy of which affidavit is attached to these papers as Exhibit E

1. On June 13, 1972, a search warrant was issued by United States Magistrate Harold J. Raby on the affidavit of Bob C. Reutter for a search of the above-named premises

2. Officer Reutter states that he has been supplied with information from two confidential informants. He states that both informants have been supplying information to the FBI and apparently to other agents. But nowhere does Reutter state that he has ever worked with these men or that he personally knows of their reliability. Also, Reutter does not state sufficient facts and circumstances which would in any way indicate that these confidential informants are in fact reliable. Moreover, there is ever greater need for a detailed accounting of the informants' reliability in that it is alleged that they have only been associated with the FBI for approximately six months and one year, respectively. Therefore, it is submitted that their reliability has not been sufficiently established and the information they allegedly supplied cannot be considered in determining the existence of probable cause.

3. Reutter states that informant No. 1 knows that there is a "control spot" at 94 Garden Street. However, the source of this information is not stated. The affidavit only states that informant No. 1 has had conversations with various people, but it does not state that during the course of these conversa-

tions the informant was told that 94 Garden Street was a "control spot" or that informant No. 1 has ever been to the premises and has seen gambling activity being conducted there. Therefore, the source of informant No. 1's information has in no way been shown to be credible and there is nothing to indicate that it was based on no more than mere suspicion or casual rumor.

4. There is no proof that the information supplied by informant No. 1 is other than "stale" in that it describes alleged activity which occurred far before the issuance of the search warrant herein. It is settled under New York law and under federal law that probable cause must exist at the time the search warrant is issued and must therefore be fresh.

5. Informant No. 1 allegedly conversed with one Louis Visconti wherein Visconti allegedly stated that he was picking up from a "spot" in Poughkeepsie, but the affidavit does not state that the alleged "spot" was at 94 Garden Street.

6. The observations of the FBI in no way corroborate any of the alleged information given by source No. 1, nor do they independently support a finding of probable cause.

7. Initially, there is no indication as to who the alleged agents are who supposedly conducted observations, nor is there an indication as to how this information was disseminated to Officer Reutter.

8. The affidavit states that one J. H. Carrington, Jr. was seen merely entering the premises at 94 Garden Street

on only ten occasions in more than six months. It is submitted that this activity definitely does not support an allegation of a sustained gambling operation. Moreover, it is stated in a conclusory manner that Carrington was carrying money and slips of paper, but no facts whatsoever are given which escalate this statement above mere suspicion.

9. Similarly, one Lonnie Johnson was allegedly seen handing a package to a "John Doe" in the vacinity of 94 Garden Street, but there is no indication or allegation that this package contained any illegal material or that it came from, or was taken to the 94 Garden Street premises.

10. The remainder of the affidavit does not even mention the 94 Garden Street premises. Clearly and unequivocally, there is not even a shred of credible evidence which would support a finding of probable cause to issue a search warrant for the 94 Garden Street premises. Therefore, this warrant must be held invalid and the proceeds obtained from any search therein must be suppressed.

(d) The Search of Eddie Washington, Leonard Harrison and the residence known as 199 South Street, Newburgh, New York; a copy of which Search Warrant is attached to these papers as Exhibit F

1. On June 13, 1972 a search warrant was issued by the County Court of Orange County authorizing a search of the above-described people and premises. The affidavit accompanying that search warrant was made by Investigator J. A. Tripodo of the New York State Police, Middletown, New York.

2. The affidavit is insufficient on its face in that it authorizes the search of a "second floor apartment" at 199 South Street, Newburgh, New York. Upon information and belief there are two apartments on the second floor, and therefore the search is invalid in that it does not describe with particularity the place or premises to be searched pursuant to §690.45(4) of the Criminal Procedure Law.

3. There is no indication in the affidavit as to the alleged source of the information given by the confidential informant. Assuming, without conceding, that sufficient facts establish the informant's reliability, under well settled law the reliability of his information must also be shown. Therefore, the information given by this informant could be based on nothing more than suspicion, rumor or hearsay and is not sufficient to establish probable cause for the issuance of a search warrant.

4. Similarly, there is no indication as to when this information was obtained. Specifically, there is no

proof that it was other than "stale". It is well settled that probable cause must exist at the time the warrant is issued and not at some time prior to that date.

5. Moreover, the surveillances which were allegedly conducted by Tripodo in no way corroborate the alleged information given by the informant, nor do they independently establish probable cause for the issuance of the search warrants herein.

6. Tripodo alleges that he observed Harrison meet with an unknown male, and after this meeting he states that Harrison received a white envelope. There is no indication as to what the contents of this envelope were or that he suspected that it contained gambling material.

7. Similarly, Tripodo states that he observed Harrison meet with a known gambler, although how it was known that this man was a gambler was not stated. Also, after this alleged meeting, Tripodo states that "he" departed and "he" put his hand in his shirt. Clearly there is no indication as to who "he" referred to, and the statement "as if carrying something inside his shirt" was nothing more than a mere suspicion and obviously not based upon fact.

8. Further, there is no allegation that either of these men were ever seen carrying anything into the subject premises, or for that matter, that it was believed that gambling activity was being conducted there.

9. Moreover, the affidavit continues to describe alleged meetings among the subject persons and alleges that on one occasion a package was exchanged and on another an envelope, but neither time is it alleged that they contained gambling material.

10. Finally, there is no indication whatsoever that any illegal conduct was being conducted by either of the subject persons, or at the subject premises, at or on June 13, 1972, the date this warrant was issued. It is clear that probable cause for the issuance of a search warrant must exist at the time the warrant is issued. At best the allegations in the supporting affidavit herein indicate only "remote" or "stale" activities and therefore could only establish "remote" or "stale" probable cause.

11. Therefore, this search warrant must be held invalid and any proceeds therefrom must be suppressed.

(e) Search of Michael Roman and the Premises Known as 77 Broadway, Parkridge, New Jersey, a two-story, one-family residential dwelling; a copy of which search warrant is attached to these papers as Exhibit G

1. The search warrant is invalid on its face in that it fails to describe with particularity the premises to be searched as is required by §690.45(4) of the Criminal Procedure Law. Specifically, the premises at 77 Broadway is not a one-family residential dwelling, but is a two-family dwelling, and therefore this warrant is invalid.

2. Reutter's affidavit states that he has received information from two confidential informants, but he does not state sufficient facts and circumstances which prove their reliability. He merely states that informant No. 1 has been supplying information for more than two years and that it has been consistently corroborated, but nowhere does he allege that he has personal knowledge of the corroboration. Similarly, the reliability of informant No. 2 was based solely on the fact that he has given information to the FBI and local authorities for longer than one year, which has been corroborated but Reutter does not allege that he has personal knowledge of this corroboration.

3. Clearly there are insufficient facts and circumstances stated upon which a magistrate may make an independent determination as to whether or not the information is in fact reliable, and therefore the information that they

have allegedly supplied cannot be used to determine whether or not probable causes exists.

4. Reutter states that informant No. 1 supplied information to the effect that ROMAN had stated that he was in charge of the policy operations in Orange and Duchess Counties, but it is not states that ROMAN in fact spoke to informant No. 1 personally. It is only stated that ROMAN "said" but not to whom.

5. Informant No. 1 also stated that ROMAN himself prepared tabulations which he gave to various runners, but there is no indication as to the source of this information. Specifically, there is no indication as to whether or not such information was merely suspected or was merely the product of a rumor. Reutter's affidavit also states that informant No. 2 allegedly spoke to ROMAN, wherein ROMAN allegedly said he had control over various gambling operations, but it is not stated when these alleged conversations took place. The Reutter affidavit goes on to state that on April 25, May 19, 22 and 24 of 1972, Louis Visconti was observed by agents of the Federal Bureau of Investigation picking up material from spots in Newburgh and Poughkeepsie. Nowhere is it alleged what the material was that Visconti was allegedly picking up, nor what the alleged contents were of the bag which Visconti allegedly carried into ROMAN's car.

6. The affidavit goes on to describe an alleged meeting between ROMAN and Visconti on May 19, 1972, but there is no indication as to who allegedly made the observa-

tions and how this information was disseminated to Reutter. Similarly, on the 16th and 17th of May ROMAN allegedly met with an unknown female. Here also there is no mention as to who allegedly made the observations. Also on this occasion Reutter states in a merely conclusory fashion that the unknown female was taking policy bets from the spots in Newburgh, but there are no facts or circumstances stated which support such a conclusion.

7. The affidavit goes on to state that on Wednesday, May 24, ROMAN was observed leaving his house and traveling to a deserted phone booth, and apparently Officer Reutter considered the fact that ROMAN left the phone booth almost immediately a significant fact, but his own alleged observations indicated that the telephone was inoperative.

8. Finally, there was only one mention of the premises located at 77 Broadway, Parkridge, New Jersey, the very premises for which this search warrant is issued. It is submitted that Officer Reutter's allegations of probable cause for searching that premise is based solely on the fact that ROMAN was observed at this location on the 26th, 27th, 29th and 31st of May 1972. Nowhere is there any allegation that there was gambling activity occurring at this location, or that it was even suspected that gambling activity was occurring at this location. Therefore, it is totally obvious that this supporting affidavit completely lacks even the faintest sign of probable cause for searching this premises.

9. It is obvious that the information gleaned from the two allegedly reliable informants in no way supports a finding of probable cause, nor do the alleged observations made corroborate the informant's information, or establish probable cause independently.

10. The facts and circumstances stated in the affidavit in no way support a finding of probable cause that any of the material named in the search warrant would be found either on MICHAEL ROMAN or at the 77 Broadway premises. Therefore, this search warrant is totally invalid in that it was not issued upon probable cause to search the subject premises, nor was there probable cause to believe that any of the material named in the search warrant could be found at the premises, and any evidence obtained through this warrant must therefore be suppressed.

(f) Search of the Premises Known as the first floor of 22 North Perry Street, Poughkeepsie, New York; a copy of which search warrant is attached as Exhibit H

1. This search warrant authorizes the search of the above-named premises and was issued through the United States District Court for the Southern District of New York on August 28, 1972. The affidavit in support of this search warrant was filed by Bob C. Reutter, Special Agent of the FBI. Reutter's supporting affidavit purportedly contains facts and circumstances establishing probable cause for the search of many named individuals and three distinct residences.

2. Reutter's affidavit states that it is based on information allegedly given by two confidential informants. Confidential informant No. 1 has been supplying information for only five months, and Reutter states that his reliability has been corroborated but not that he has personal knowledge of this corroboration. Similarly, Reutter states that confidential informant No. 2 has been supplying information for nearly eighteen months, and also Reutter does not allege that he has had personal contact with this informant, or that he has personally corroborated the information this informant allegedly supplied in the past.

3. Reutter states that informant No. 1 has placed bets at the subject premises, but the exact dates these bets were placed is not indicated, and therefore, there is not sufficient allegation indicating gambling activities were occurring on August 28, 1972. It is well settled under

the law that probable cause for the issuance of a search warrant must exist at the time the warrant is issued and that allegations of facts and circumstances which have occurred prior to the time the warrant is issued merely constitute "stale" probable cause and therefore are incapable of supporting the issue of a warrant.

4. The affidavit goes on to state the alleged substance of various conversations the confidential informant allegedly had with other people. Such information is nothing more than double hearsay and it is of no value in establishing probable cause.

5. The observations alleged by Reutter in no way corroborate the information allegedly supplied by the confidential informants, nor does it establish probable cause independently.

6. It is stated in a conclusory fashion that observations indicate that the premises at 22 North Perry Street is a very active policy "spot" but there are no facts or circumstances stated which support such a conclusion. Paragraph 8 of the Reutter affidavit states that observations indicate daily activity at the 22 North Perry Street residence. But Paragraph 9 states that the premises have been observed only on ten occasions during a period of almost seven months. Clearly these statements are inconsistent. Also in Paragraph 9 it is stated that many persons are seen carrying slips of paper and money into this location, but there are no facts or circumstances stated which in any way support such a statement, or upon which a detached magistrate could make such a finding.

The remaining paragraphs of the affidavit merely state that various observations revealed various persons arriving at and departing from the subject premises, and on each occasion it is stated that these people were conducting gambling activities. But there are no facts and circumstances stated which indicate that gambling activity was in fact occurring. There are no statement made that any policy slips or any other gambling material was in fact observed, nor that any informants or undercover agents were ever infiltrated into the premises so that they could personally observe gambling operations. Therefore, these statements constitute bald conclusions with no factual support, and it would therefore be impossible for a detached magistrate to make a finding that this activity was in fact occurring on the basis of this information.

7. The contents of this affidavit clearly indicate that this search warrant was issued in the absence of probable cause. The affidavit states nothing more than mere conclusory information and relies primarily upon guilt by association. Therefore, this warrant must be held to be invalid, and any and all evidence secured thereby must be suppressed.

8. The defendant has been supplied with three other search warrants, but these search warrants were not accompanied by supporting affidavits. Therefore, the defendant reserves his right to attack these search warrants when the supporting affidavits have been given to him in connection with the discovery and inspection portion of this motion.

9. The specific search warrants for which there are no supporting affidavits are: one issued for a Jane Doe, believed to be Dorothy L. Plair, 148 Washington Street, Newburgh, New York, issued out of the United States District Court for the Southern District of New York, Gerard L. Goettel, on August 29, 1972 (a copy of that search warrant is attached as Exhibit I). The second search warrant was issued for the premiese located on the south side of Gidney Avenue, Newburgh, New York, between Chambers Street (on the east side) and Lander Street (on the west), immediately to the east of a premises known as 25 Gidney Street, etc. This warrant was issued out of the United States District Court for the Southern District of New York, but no signature appears thereof. (A copy of this search warrant is attached as Exhibit J.) A third search warrant is for the premises known as 15 Eastview Avenue, Yonkers, New York a two-story white asbestos shingle residential dwelling, immediately to the south of a premises known as 19 Eastview Avenue, Yonkers, New York, issued out of the United States District Court for the Southern District of New York, and this search warrant is also not signed. (A copy of this search warrant is attached as Exhibit K.)

10. Wherefore, for the reasons stated above and for those which will more fully be developed at the time this motion is argued, your deponent prays that these search warrants be held invalid and that the evidence obtained therefrom be suppressed.

11. Moreoever, any investigations, arrests, search

and seizures or eavesdropping which in any way resulted from any evidence, leads or clues obtained from these illegal searches must be held to be fatally tainted thereby, and therefore invalid.

F. Government Informer

1. The defendant requests the government to disclose whether any government informer supplied evidence to the government either before, during the course of, or after this alleged conspiracy so that the defendant may properly move to suppress that evidence on the grounds that it was illegally obtained.

2. Therefore, the defendant demands to know now whether there were any government informers, acting as agents of the government, who were obtaining information concerning this alleged conspiracy and supplying it to the government.

3. It may be that those government informers will not be used as witnesses in this case, but the defendant is entitled to know about the source of this information because it may have led to other evidence which will be offered in the trial, or may have been contaminated by the illegal original source which the defendants have a right to challenge.

4. It is urged that this evidence may have been acquired in a way that violates the defendant's rights under the Fourth and Fifth Amendments to the United States Constitution.

5. So that there can be no mistake about the defendant's request here, it is urged that under the decisional law of the United States Supreme Court, this defendant is entitled to have the government disclose whether any agent, employee, special employee or informer, paid or unpaid was at the direction of

any federal law enforcement agency, or state law enforcement agency, used or instructed to gather evidence or information and/or to participate in any way in the activities which form the basis of this indictment. If such information was acquired through state agencies, the defendant is entitled to know that information.

6. In the event such infiltration by an officially directed agent or informer was employed, deponent believes that the use of the information obtained by such agent or employee or any information derived directly or indirectly from him is in violation of the defendant's rights under the Fourth and Fifth Amendments to the United States Constitution and, therefore, a hearing is authorized to fully explore these violations of the defendant's constitutional rights.

7. In this regard, the defendant requests to know whether any information concerning this alleged conspiracy was supplied to the government from any state or local enforcement agency. The reason for this request of disclosure is to permit counsel for the defendant to examine into the constitutional procedures followed by any cooperating state police agencies who may have furnished information to the federal authorities in connection with the prosecution of these alleged offenses.

8. The defendant requests that the government disclose whether any of the co-defendants will be used as witnesses against the defendant or were used in any capacity prior to the return

of this indictment to gather evidence against the other defendants. This information must be supplied to the defendant at this time in order to protect his rights under the Fourth, Fifth and Sixth Amendments to the United States Constitution. Such information is necessary in order that this defendant does not confer with any such persons or discuss his trial strategy with them.

G. Section 1955 of Title 18 is Unconstitutional

1. Under the Ninth and Tenth Amendments of the United States Constitution, the definition and prosecution of local intrastate crime are reserved to the states. Through §1955, the federal government attempts to exert jurisdiction over gambling activities, which in the case at bar is purely local and has absolutely no effect upon interstate commerce. Consequently, §1955 represents an unconstitutional exercise of power by the federal government over an area reserved for the states. This section is both unconstitutional on its face and as applied in the case at bar.

2. The gambling activities described in this indictment which are purely intrastate, have no effect, or at least no substantial effect, on interstate commerce. The statute is further unconstitutional because it does not require that the proscribed activities have an impact of any kind upon interstate commerce. Consequently, the activities described in this indictment fall outside that class of conduct as to make the federal government's regulation of them an appropriate means to attain a regulation of interstate commerce.

3. Section 1955 of Title 18, a copy of which is annexed to this motion and marked Exhibit "B1" simply provides, "whoever conducts . . . an illegal gambling business . . . " shall be punished. No place in the section do the words willfully,

knowingly or any of their counterparts appear. Thus, a person can be found guilty under §1955 of a federal felony without knowingly committing any of the acts proscribed under that section. The element of scienter is completely lacking from the statute as is the requirement of specific intent, traditional associated with any offense which is a felony.

4. Section 1955 is further unconstitutional because it is not limited in its reach to only those activities which by some rationale have an impact on commerce. It in effect reaches all gambling business between various persons, regardless of the number of transactions made or whether those persons act independently or in association with others, whether an interstate facility or instrumentality is used or whether the transaction or operations affect commerce. The statute is constitutionally deficient because it requires no showing by the government of any federal interest in the activities proscribed, but at the same time, opens the federal courts to a mass of purely local matters which the states have traditionally had jurisdiction over.

5. Under the commerce clause of our federal constitution, federal jurisdiction can only be invoked where the activities sought to be proscribed exerts a substantial economic effect on interstate commerce, or is so co-mingled with or related to interstate commerce that all such activities must be regulated if the interstate commerce is to be effectively

controlled. Section 1955 of Title 18 cannot be justified on each of these grounds.

6. Section 1955 of Title 18 is also unconstitutional because it elevates a state offense which is a misdemeaner to a felony under federal law.

7. Section 1955 is further unconstitutional in that it allows the government to flatly state that a defendant has violated a state law, without in anyway affording that person a trial in a state court, for that alleged state offense. Therefor the presumption that the defendant is innocent of a state crime until proven guilty in a state court is extinguished, and Section 1955 is therefore unconstitutional.

8. For all these reasons, Section 1955 should be declared unconstitutional on its face, or in the alternative, should be declared unconstitutional as applied in this case. A hearing is requested to develop any and all facts which are needed by this court in order to declare this section unconstitutional.

Proposed

H. Inspection of the Grand Jury Minutes Pursuant to Rule 6(e)

The defendant moves the Court, pursuant to the Federal Rules of Criminal Procedure, for an order requiring the government to produce to this defendant and his attorney for inspection and copying the transcripts of the testimony of all witnesses who appeared before the Grand Jury in respect to the subject matter of the indictment in this case, and in support thereof aver as follows:

1. The indictment in this case was returned without any preliminary hearing having been afforded the defendant and purports to be based upon the testimony of persons who appeared and testified before the Grand Jury.

2. If this defendant had been afforded a preliminary hearing, he would have been confronted by those persons upon whose testimony the government intends to rely to support the charges which have been made against him in this case, and he would have had an opportunity to examine and inspect all documents presented by the government to the Grand Jury and deemed by the government to be relevant to the charges set forth in the indictment.

3. The testimony of the aforementioned persons was taken stenographically before the Grand Jury and transcripts thereof are now in the possession of the United States Attorney for the purpose of preparing the case for trial and for use

in pre. nting evidence at the trial of the case.

4. Based upon the investigation thus far conducted by defendant's counsel, there is no legal evidence sufficient to establish as a matter of law that any cause exists for accusing the defendant of the crimes charged in this indictment, and there was insufficient legal evidence adduced before the Grand Jury to sustain the charges presented by this indictment.

5. Under all of the circumstances of this case, an inspection of the minutes of the Grand Jury is absolutely necessary for the purpose of ascertaining whether or not sufficient evidence was adduced before that body to establisn that the defendant was involved in the crimes charged. In the alternative, if leave to inspect the Grand Jury minutes by your deponent is denied, then the court is respectfully requested to review the Grand Jury minutes and dismiss the indictment because of insufficient legal evidence before that body.

6. In particular, upon information and belief, an inspection of the Grand Jury minutes will reveal that the evidence failed to prove that the defendant violated the provisions of Article 225 of the Penal Law of the State of New York, such proof being necessary in order to support a violation of §1955 of Title 18 of the United States Code. Therefore, the court is respectfully requested to review the Grand Jury minutes and dismiss the indictment because of insufficient legal evidence before that body.

7. In order to properly prepare his defense there is compelling necessity and particularized need that the defendant be afforded an opportunity to inspect and copy the transcripts of the testimony of all witnesses who appeared before the Grand Jury whom the government intends and expects to call, or has reason to believe may be or will be called, to testify in support of the government's case or any aspects thereof. The defendant is entitled to the discovery herein requested in order that he may properly prepare his defense; in order that he may be informed of the nature of the evidence upon the government intends to rely; to enable his counsel to prepare for cross examination of such persons; and because the testimony sought to be discovered may be material to the impeachment of government witnesses at trial.

8. Upon information and belief, the only fact witnesses called before the Grand Jury gave evidence either exculpatory or favorable to the defense. We have reason to believe that the evidence which forms the basis of the indictment was summarized by a special agent of the FBI or other agents of the government. This practice of presenting evidence through a conduit witness in the form of hearsay evidence has been repeatedly criticized by appellate courts. Despite these repeated warnings, prosecutor's continue to exploit this unfair advantage. As indicated above, we suspect the Grand Jury was not advised that the evidence upon which this indictment is based

was purely hearsay. Consequently, a full judicial investigation into this constitutional complaint is necessary.

9. It is further urged that disclosure of the minutes before the Grand Jury will be in no way prejudicial to the government in this case, but will serve the best interests of justice by revealing to this court the true nature of the evidence before the Grand Jury and that it was insufficient as a matter of law to sustain these charges.

10. The defendant moves that the entire transcript of the Grand Jury proceedings be produced so that counsel may ascertain if there are grounds to dismiss the indictment based upon the Grand Jury proceedings. It is believed that an inspection of the Grand Jury minutes may reveal that the statute is unconstitutional as it is being applied to the defendant and there was no evidence linking him to the offense charged. Inspection is further necessary to determine if the Grand Jury proceedings were properly conducted.

11. An inspection of the Grand Jury minutes is constitutionally required in this case to determine whether any evidence derived from any illegal sources such as unauthorized electronic surveillance or illegal use of an informer was presented to the Grand Jury.

12. Wherefore the defendant, MICHAEL ROMAN, was given an inadequate preliminary hearing, and therefore

respectfully requests this court to allow inspection of the Grand Jury minutes or in the alternative for the Court to inspect the Grand Jury minutes and on the basis thereof dismiss the indictment herein.

I. Misjoinder of Offenses

1. The government has misjoined in a single indictment the charges of conspiring to violate §1955 together with a substantive violation of that section. For it is well settled that when a substantive offense requires the cooperation of two or more persons, then those same individuals cannot be charged and convicted of conspiring to commit that offense if in fact that offense has been consummated.

2. Here the Grand Jury has concluded that there was in fact a consummated violation of §1955 which requires the cooperation of five or more persons. Since the Grand Jury's determination is clearly reflected within the indictment herein, the defendant cannot also be charged with conspiring to violate that section. Since cooperation is an essential element of the violation of §1955, he cannot be guilty of also conspiring to violate that section which in effect involves exactly the same conduct.

3. Consequently, the defendant will be subjected to the jeopardy of double punishment for the substantive offense itself contemplates an illegal agreement as does the conspiracy count. Parties who act in consert under the substantive offense cannot also be charged with acting in consert under a conspiracy count where an essential element of the substantive offense involves acting in consert.

4. For all of these reasons, either the conspiracy count of the indictment or the substantive count must be dismissed or the government must make an election as to which count they prefer to try. Accordingly, an appropriate order should be entered by this court either dismissing one count or the other or requiring the government to elect to proceed to trial on only one count.

opposed as part of one conspiracy

J. SEVERANCE

1. The defendant moves under Rule 14 that he be severed from this indictment and granted a separate trial on the grounds that his case has been misjoined with the other co-defendants and co-conspirators.

2. It is urged that the events involving the various alleged conspirators under this indictment are not sufficiently connected to authorize their being tried together under one indictment and in one trial. In fact, this indictment involves a number of different episodes totally unrelated and unconnected which should be tried separately and not together.

3. It is further urged that because of the number of defendants involved in this case and the complexity of the evidence, the tryer of fact will be unable to distinguish the evidence and apply the law intelligently as to the charges against each defendant. Thus, a single trial of all of the defendants would be so prejudicial to each of these defendants because of the undue complexity of the charges and the evidence, that it is necessary that the defendant, MICHAEL ROMAN, be granted a separate trial.

4. In the event any of the other defendants have made statements in connection with the events described in this indictment which inculpates this defendant, a severance must be granted under Bruton v. United States, 391 U.S. 123 (1968). Since these statements will not be admissible against this defendant, it is urged that a separate trial is required under Bruton.

5. In the event the Court shall determine that this defendant does not have any standing to complain of the illegal searches and seizures and/or illegal eavesdropping concerning other co-defendants, then the offer of that evidence will necessarily have to be restricted to the co-defendant from whom it was seized because of the government's concession that the other co-defendants or co-conspirators have no interest in that evidence and therefore no standing to complain of its illegal seizure. Since that evidence will only be admissible against the defendant from whom it was taken, it is urged that this defendant is entitled to a separate trial in order that he avoid being prejudiced by this evidence which is not admissible against him.

6. For all of these reasons, the defendant, MICHAEL ROMAN, should be granted a severance from the within indictment and should be granted a separate trial under the authority of Rule 14 of the Federal Rules of Criminal Procedure.

7. Furthermore, count three of the indictment must be severed in that it in no way relates to the defendant, MICHAEL ROMAN, and therefore there is no possible authority under Rules 8 & 14 for its joinder with counts one and two of the indictment rendered against this particular defendant.

8. Moreover, the defendant herein may have to call some of the other co-defendants as witnesses on his behalf. If he is forced to participate in a joint trial, he will be unable to compel any of the other co-defendants to take the stand and to testify. Therefore, he would be deprived of his Sixth Amendment right to confront witnesses and also to produce witnesses on his behalf. Therefore, he must be granted a severance in order that he may effectively conduct his defense.

K. Other Motions

1. At the time this motion is argued, the defendant respectfully reserves the right to request further details in the form of either Bills of Particulars or in the nature of discovery, as the need for that information becomes apparent.

2. The defendant, MICHAEL ROMAN, also reserves the right to make any and all motions which may be necessitated by reason of the granting of certain relief requested herein. And further, if facts should develop which require the making of other motions, counsel respectfully reserves the right to make these motions.

WHEREFORE, it is respectfully requested that this court grant the relief requested in the various branches of this motion and accord this defendant, MICHAEL ROMAN, such other and additional relief as is just under all the circumstances of this case.

Sworn to before me this
4th day of March , 1973.

Marie La Marco

MARIE LA MARCO
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 19.73

EXHIBIT A - INDICTMENT ANNEXED TO FOREGOING AFFIDAVIT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA :

-v- : INDICTMENT

ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, MICHAEL CAMPOREALE, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON, and HARRY WEIS, : 73 Cr. 56

Defendants. :

COUNT ONE

The Grand Jury charges:

1. From on or about September 1, 1970, and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS, the defendants, and Beeman Bowman, Jr., Jean Bujese, Michael Camporeale, James Carrington, Jr., Ramon Casiano, Thomas Collins, Donna Cuzzo, George Davis, Allan Handler, Patricia Hyatt, Roy Hyatt, Pasquale Maselli, Dorothy Plair, Hoke Roberts, Willie Scott and Eugene Woska, named herein as co-conspirators but not as defendants, did unlawfully, wilfully and knowingly combine, conspire, confederate and agree, together and with each other, and with diverse other persons to the Grand Jury known and unknown, to commit offenses against the United States, to wit, to violate Title 18, United States Code, Section 1955.

2. It was part of said conspiracy that said defendants and co-conspirators would unlawfully, wilfully and knowingly conduct, finance, manage, supervise, direct and own an illegal gambling business, to wit, a policy gambling business (a) being

a violation of the laws of the State of New York, to wit, Penal Law Sections 225.05 and 225.15, (b) involving five or more persons who conduct, finance, manage, supervise, direct and own a part of said illegal gambling business, and (c) being and remaining in substantially continuous operation for a period in excess of thirty days and having a gross revenue of substantially in excess of two thousand dollars ($2,000) in any single day.

3. Among the means whereby said defendants carried out the conspiracy were the following:

a. The defendants ANTHONY POLITI, MICHAEL ROMAN and ROBERT PETERS organized, maintained, managed, directed and supervised the illegal policy gambling business.

b. Each day, six days a week, the illegal policy gambling business was conducted in the following manner:

(i) A great number of runners, not named as defendants or co-conspirators herein, received bets and money from bettors in Poughkeepsie, New York, Newburgh, New York and other areas between the hours of 11:00 A.M. and 4:00 P.M.

(ii) The defendants LAWRENCE JOHNSON, ARTHUR FRANGELLO, EDDIE WASHINGTON, and LEONARD HARRISON caused the betting slips and money accumulated by runners in the policy gambling business to be delivered by various means, no later than 4:30 P.M., to locations in Poughkeepsie, New York and Newburgh, New York, including 94 Garden Street, Poughkeepsie, New York, 199 South Street, Newburgh, New York and 23 Gidney Street, Newburgh, New York.

(iii) At or in the vicinity of these addresses and at approximately 5:00 P.M., the defendant LOUIS VISCONTI caused a separation of the betting slips and money collected from the runners, to protect against the loss of both the slips and money collected, in the event of an arrest.

(iv) The defendants GERALD POLITI, PHILIP POLITI, HARRY WEIS, ALPHONSE CUZZO and co-conspirator MICHAEL CAMPOREALE

then caused the accumulated betting slips to be transported in the early evening hours through various individuals, in some instances by direct deliveries and in other instances through the use of "drop" locations, to a policy gambling "bank" located at the residence of the defendant ALPHONSE CUZZO at 15 Eastview Avenue, Yonkers, New York.

(v) At the bank, the defendant ALPHONSE CUZZO caused the following functions to be performed: the computation on a separate adding machine tape for each runner of the total amounts bet as shown on each runner's betting slips; the computation of the commission payable to each runner, constituting a percentage of the total bets received by him; preparation of "hit slips," reflecting winning numbers for the day for the bettors from whom each runner had received bets, the amount bet on each such number, and the amount of the win payable to each winning bettor; preparation of a master adding machine tape reflecting the total amount of bets surrendered by each runner and showing the gross amount of bets for the entire operation for the day; and the entry of figures reflecting the day's transactions on the permanent books of the bank.

(vi) After completion of the computations and bank book entries described in sub-paragraph (v) above, and between the hours of approximately 8:30 P.M. and approximately 12:30 A.M., the defendant ALPHONSE CUZZO caused the separate adding machine tapes, hit slips and master tape referred to in sub-paragraph (v) to be transported, in some instances by direct delivery and in other instances by the use of drop locations, to the defendant MICHAEL ROMAN.

(vii) After the separation of betting slips and money collected referred to in sub-paragraph (iii) above, the defendant LOUIS VISCONTI, in the early evening hours, caused the money collected to be transported by direct delivery to the defendant MICHAEL ROMAN at various locations.

(viii) At various locations including 77 Broadway, Park Ridge, New Jersey, the defendant MICHAEL ROMAN caused the entry of figures reflecting the day's transactions to be made on a separate set of books maintained by him and then, by approximately 9:00 A.M., caused the moneys payable on winning numbers, together with the adding machine tapes for each runner, to be transported, through various individuals, to the defendant LOUIS VISCONTI, for ultimate return to the individual runners located in Poughkeepsie and Newburgh, New York.

c. In an effort to frustrate and impede investigation and prosecution of their illegal policy gambling business by federal and state law enforcement authorities, the defendants took the following steps:

(i) After the arrest of the defendants ANTHONY POLITI, PHILIP POLITI and MICHAEL ROMAN in possession of policy slips and records relating to the illegal policy gambling business, by New York State Police officers on January 26, 1971, at the Bobbin Inn Motel in Rockland County, New York, the defendants caused the bank for the policy gambling business to be moved from that location to other locations including 15 Eastview Avenue, Yonkers, New York.

(ii) After the arrest of the defendant MICHAEL ROMAN in possession of policy slips, records and money relating to the illegal policy gambling business, by Special Agents of the Federal Bureau of Investigation on June 2, 1972, at 77 Broadway, Park Ridge, New Jersey, the defendant MICHAEL ROMAN moved to other locations for performance of the functions described in paragraph 3b(viii) above.

(iii) After the arrest of the defendants EDDIE WASHINGTON and LEONARD HARRISON in possession of policy slips and money relating to the illegal policy gambling business, by Special Agents of the Federal Bureau of Investigation and New York State Police officers, on June 14, 1972, at 499 South Street, Newburgh, New York, the defendants caused co-conspirators George Davis, Dorothy Plair and others to be substituted for

defendants EDDIE WASHINGTON and LEONARD HARRISON in performing the functions described in paragraph 3b(ii) above; and further caused the delivery of betting slips and money accumulated by runners in the illegal policy gambling business to be made at new locations in Newburgh, New York, including 23 Gidney Street; and further caused co-conspirators Ramon Casiano and Beeman Bowman, Jr. to be substituted for defendants GERALD POLITI, PHILIP POLITI, HARRY WEIS and co-conspirator MICHAEL CAMPOREALE in performing the functions described in paragraph 3b(iv) above.

(i After the seizure, pursuant to search warrant, of policy slips and records relating to the illegal policy gambling business, by Special Agents of the Federal Bureau of Investigation and the New York State Police officers on August 29, 1972, at the policy bank at 15 Eastview Avenue, Yonkers, New York, and the arrest shortly thereafter of the defendant ALPHONSE CUZZO at the same address, the defendant ALPHONSE CUZZO caused the policy bank to be moved to other locations.

(v) After the arrest of the defendants ANTHONY POLITI, MICHAEL ROMAN and ROBERT PETERS in possession of policy records and money relating to the illegal policy gambling business, by Special Agents of the Federal Bureau of Investigation, on August 29, 1972, in an automobile in Yonkers, New York, said defendants changed the drop location at which the defendant ALPHONSE CUZZO caused delivery of the policy records referred to in paragraph 3b(vi) above, to the defendant MICHAEL ROMAN from a telephone booth near which the defendants ANTHONY POLITI, MICHAEL ROMAN and ROBERT PETERS were arrested to other telephone booths including one located in Bronx, New York.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the defendants, in the Southern District of New York and elsewhere, committed and caused to be committed the following overt acts, among others:

1. On or about January 26, 1971, ANTHONY POLITI, MICHAEL ROMAN and PHILIP POLITI were at the Bobbin Inn Motel, Rockland County, New York.

2. On or about February 22, 1972, LOUIS VISCONTI met with Michael Camporeale at the A&P parking lot, Rt. 52, Beacon, New York.

3. On or about March 21, 1972, ANTHONY POLITI met with ARTHUR FRANGELLO and ROBERT PETERS in Vails Gate, New York.

4. On or about March 30, 1972, Michael Camporeale met with Patricia Hyatt in Yonkers, New York.

5. On or about April 27, 1972, Michael Camporeale met in an automobile with HARRY WEIS in the vicinity of Route 52 in Dutchess County, New York.

6. On or about April 27, 1972, Michael Camporeale deposited a parcel containing policy slips in a bush located behind the Great Eastern department store in Yonkers, New York.

7. On or about April 27, 1972, GERALD POLITI retrieved the parcel referred in OVERT ACT 6.

8. On or about May 1, 1972, ANTHONY POLITI, PHILIP POLITI, HARRY WEIS and ROBERT PETERS met in Yonkers, New York.

9. On or about June 2, 1972, MICHAEL ROMAN was at 77 Broadway, Park Ridge, New Jersey, in possession of the policy records and slips reflecting bets for a portion of the illegal policy gambling business on June 1, 1972, in the total amount of $15,764.25.

10. On or about June 14, 1972, LEONARD HARRISON and EDDIE WASHINGTON were at 199 South Street, Newburgh, New York.

11. On or about June 14, 1972, LOUIS VISCONTI drove his automobile in the vicinity of River Road, Newburgh, New York.

12. On or about August 29, 1972, GERALD POLITI placed an envelope containing policy records in a telephone booth located near a Gulf Station located at

the intersection of Saw Mill River Road and Tompkins Avenue, Yonkers, New York.

13. On or about August 29, 1972, ANTHONY POLITI, MICHAEL ROMAN, and ROBERT PETERS travelled in an automobile to the Gulf Service Station referred to in OVERT ACT 12.

14. On or about August 29, 1972, ROBERT PETERS retrieved the envelope containing policy records referred to in OVERT ACT 13.

(Title 18, United States Code, Section 371)

COUNT TWO

The Grand Jury further charges:

From on or about September 1, 1970, and substantially continuously thereafter, up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, ANTHONY POLITI, GERALD POLITI, PHILIP POLITI, MICHAEL ROMAN, ROBERT PETERS, ALPHONSE CUZZO, ARTHUR FRANGELLO, LEONARD HARRISON, LAWRENCE JOHNSON, LOUIS VISCONTI, EDDIE WASHINGTON and HARRY WEIS, the defendants, did unlawfully, wilfully and knowingly conduct, finance, manage, supervise, direct and own an illegal gambling business, to wit, a policy business (a) being in violation of the laws of the State of New York, Penal Law Sections 225.05 and 225.15, (b) involving five or more persons who conduct, finance, manage, supervise, direct and own a part of said illegal gambling business and (c) remaining in substantially continuous operation for a period in excess of thirty days and having a gross revenue of two thousand dollars ($2,000) in any single day.

(Title 18, United States Code, Sections 1955 and 2)

COUNT THREE

The Grand Jury further charges:

1. On or about the 17th day of November, 1972, in the Southern District of New York, MICHAEL CAMPOREALE, the

defendant, while under oath as a witness before the Grand Jury of the United States of America, in a case pending before the said Grand Jury, unlawfully, wilfully and knowingly did make false material declarations as set forth below.

2. At the time and place aforesaid the Grand Jury was conducting an investigation to determine whether there had been committed in the Southern District of New York and elsewhere violations of the laws of the United States, to wit conspiracy and conduct of an illegal gambling business, in violation of Sections 371 and 1955, Title 18, United States Code, and other criminal violations.

3. It was a matter material to said Grand Jury to determine whether or not MICHAEL CAMPOREALE, the defendant, had met with or seen Louis Visconti or David Weygant on one or more occasions, and whether or not MICHAEL CAMPOREALE, the defendant, was able to recognize photographs of said individuals.

4. At the time and place aforesaid, while under oath, MICHAEL CAMPOREALE, the defendant, was shown Grand Jury Exhibits 3 and 3A of November 17, 1972, which were photographs of Louis Visconti and Grand Jury Exhibit 4 of November 17, 1972, which was a photograph of David Weygant.

5. MICHAEL CAMPOREALE, the defendant, unlawfully, wilfully and knowingly did declare as follows with respect to the aforesaid material matter:

Q Now, I hand you --

MR. FRIEDMAN: For the record, I am handing the witness the same exhibits that I handed to the previous witness --

Q .. and I ask you to look at these photographs and the photographs of the individuals that you know, would you please place on the left and the photographs of the individuals that you do not know, would you plea[illegible] on the right?

MR. FRIEDMAN: Let the record reflect that the witness has identified the exhibit from October 18, 1972, Exhibit No. 10; and the exhibit from November 17, 1972,

Exhibit No. 2; exhibit from October 18, 1972, Exhibit No. 12.

Q Now, with respect to all other exhibits that I just handed to you, do you recognize any of those individuals?

A No.

Q You have never met any of those other individuals?

A No, sir.

Q Are you positive of that?

A Yes, sir.

. . . . .

[Mr. Friedman:]

Let us go over this again. I just want to go over this.

With respect to Government's Exhibit I dated October 25, 1972, No. 3 and 3-A, dated November 17, 1972; No. 5 dated October 18, 1972; No. 6 dated October 18, 1972; No. 7 dated October 18, 1972; No. 20 dated October 25, 1972; No. 5 dated November 17, 1972, No. 4 dated November 17, 1972; No. 16 dated October 25, 1972; No. 21 dated October 25th; No. 11 dated October 18th; No. 17 dated October 18th, No. 15 dated October 25th; No. 17 dated October 25th; No. 18 dated October 25th and 14 dated October 18th, you never have seen those individuals; is that correct?

A As far as I can remember, no.

Q So you cannot remember seeing these fellows at all; is that correct?

A No, sir.

Q You are sure you cannot remember seeing them; is that correct?

A Yes.

Q You are sure you cannot remember ever seeing those individuals whose photographs I just showed you?

A Not that I can remember, no. I might have seen them.

Q You are sure you never remember having seen them; is that correct?

A Right.

6. The aforesaid testimony of MICHAEL CAMPOREALE, the defendant, as he then and there well knew and believed, was not true in that MICHAEL CAMPOREALE had in fact met Louis Visconti and David Weygant and did in fact remember having seen them.

(Title 18, United States Code, Section 1623)

Frank Filgiano
Foreman

Whitney North Seymour, Jr.
United States Attorney
Southern District of New York

JMF:feh

EXHIBIT C - SEARCH WARRANT AND SUPPORTING AFFIDAVIT OF ROBERT V. PARKHURST ANNEXED TO FOREGOING AFFIDAVIT

SUPREME COURT
STATE OF NEW YORK
COUNTY OF WESTCHESTER

In the Matter

of

THE APPLICATION FOR A SEARCH WARRANT FOR THE PERSON OF PHILIP POLITI AND A CERTAIN DESCRIBED PREMISES, AND A CERTAIN MOTOR VEHICLE

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK
TO ANY PEACE OFFICER IN THE COUNTY OF WESTCHESTER: OR ROCKLAND:

Proof by affidavit having been made this date before me by Criminal Investigator ROBERT V. PARKHURST, that there is probable cause to believe that certain property, possession of which is a crime, which constitutes evidence of a crime, and which is used as a means of committing a crime, will be found on the person of a certain individual and at a certain location and that said property may easily and quickly be destroyed or disposed of:

YOU ARE THEREFORE COMMANDED, between the hours of 6:00 A.M. and 9:00 P.M. to make an immediate search of the person of PHIL POLITI and a certain bungalow or summer type cottage located in the extreme northeast corner of the BOBIN COUNTRY CLUB AND DAY CAMP, a/k/a BOBIN CABINS & MOTELS, off Route 9W, Rockland Lake, Rockland County, N.Y. and for the 1966 green Jeep PR7417 New York, for the following personal property:

any gambling apparatus, documents, records of bets, money, receipts for money wagered, bets on horses and sporting events, bets in the game commonly known as policy, names and code names of players, runners, pickup men, comptrollers, telephone numbers, address books, pencils, pads and other gambling paraphernalia commonly used in and associated with bookmaking, policy, and other allied crimes.

Proof having been made that the property sought may be easily and quickly destroyed or disposed of, the officers executing this warrant are not required to give prior notice of their authority or purpose.

And if you find same, bring it before me at the Supreme Court, Westchester County, County Courthouse, City of White Plains, New York.

This order is effective for ten (10) days.

Dated: White Plains, New York

January 6 1971.

Justice of the Supreme Court

SUPREME COURT
STATE OF NEW YORK
COUNTY OF WESTCHESTER

In the Matter

of

THE APPLICATION FOR A SEARCH WARRANT FOR THE PERSON OF PHILIP POLITI AND A CERTAIN DESCRIBED PREMISES, AND A CERTAIN MOTOR VEHICLE

STATE OF NEW YORK)
: ss:
COUNTY OF WESTCHESTER)

ROBERT V. PARKHURST, being duly sworn, deposes and says: That I am a Criminal Investigator of the District Attorney's Office of the County of Westchester, and I have been engaged in an investigation of violations of Article 225-of the Penal Law taking place within Westchester and surrounding Counties. Unless stated otherwise, this affidavit is based upon my own personal knowledge and the personal knowledge of other peace officers assigned to this investigation.

From information and belief, the source being the confidential records of the District Attorney's Office and the New York State Police, PETER VARIANO has been running, for years, an illegal gambling syndicate within the County of Westchester and surrounding Counties. PETER VARIANO has a gambling conviction and he is presently under indictment for Federal Gambling and related charges. PHILIP and ANTHONY POLITI, as well as HARRY WEISS, ROBERT PETERS, and SAM MANGANO are also known to have worked as pick-up men and controllers for VARIANO. Also convicted with PETER VARIANO on gambling charges, was his co-defendant, PAT MASELLI.

Based upon the facts and reliable information hereinafter set forth, I believe that the premises, which is the target of this application, are being used at the present time by PHILIP POLITI and others as a policy office or "knock-out" room. Because of successful raids conducted by the Westchester County District Attorney's Office and the State Police on other knock-out rooms, I believe that PETER VARIANO has moved his present office outside of Westchester County into Rockland County to avoid detection.

Since October of 1970, an Investigator of the Westchester County District Attorney's Office, operating in an undercover capacity, has been placing policy bets in a business premises known as BLUE AND ANN'S FISH & CHIP RESTAURANT, located on Central Avenue in Peekskill, New York. A bet was placed at this location as recently as January 25, 1971. These bets have been placed primarily with JESSE NEWTON, a/k/a BLUE. This Investigator, on numerous occasions, has observed JESSE NEWTON, a/k/a BLUE, accepting policy wagers from others within the premises. On November 13, 1970, this Investigator observed JESSE NEWTON, a/k/a BLUE, turning over money and policy slips to one RICHARD SAPONARA of 81 Worthington Road, White Plains, New York. On numerous occasions during the month of December, 1970 and January, 1971, SAPONARA was seen making regular daily visits to this same Restaurant in Peekskill, New York and, on several other occasions, was observed receiving papers from JESSE NEWTON, a/k/a BLUE (the time and day at which these transfers took place is consistent with the time at which a policy collector must turn his bets over to a pick-up man).

When it was established what SAPONARA was doing, he was then placed under surveillance and a pattern was established whereby

SAPONARA would leave the City of Peekskill and meet with PHIL POLITI at any one of several locations. On several of these occasions, SAPONARA was observed handing papers and white envelopes to PHIL POLITI. ROBERT PETERS, HARRY WEISS, AND SAM MANGANO all have gambling convictions.

During December of 1970, HARRY WEISS, ROBERT PETERS, SAM MANGANO and ANTHONY POLITI, between 2:30 and 3:00 PM, were observed handing envelopes to PHIL POLITI. SAPONARA was observed on the same occasion approaching a motor vehicle operated by PHIL POLITI. When the investigation revealed that PHIL POLITI was receiving slips and papers from these individuals on a daily basis, he was placed under surveillance and followed from the Town of Greenburgh. It became apparent that PHIL POLITI, on a daily basis, drove north out of Westchester County and went to the FORT MONTGOMERY INN at FORT MONTGOMERY, NEW YORK. An undercover Investigator in the FORT MONTGOMERY INN established that PHIL POLITI was meeting with one JOHN DWYER, owner of the FORT MONTGOMERY INN, FORT MONTGOMERY, NEW YORK. PHIL POLITI then leaves the FORT MONTGOMERY INN, FORT MONTGOMERY, N.Y. at approximately 4:30 PM each day and drove further north, where he would make stops at other locations in Dutchess, Putnam and Orange Counties. He was then followed to a location in Rockland County and a particular building, which is the target of this application. He was first observed entering this cabin or bungalow at approximately 6:00 PM on January 20, 1971. He was observed at this same location on January 21, 22 and 23, 1971, entering the building at approximately the same time, where he would remain until approximately 9:30 or 10 PM. On each occasion, he was admitted by an unknown person inside the building after <u>three</u> distinct knocks on the door. On each occasion he was observed carrying a bag which I believe contained gambling records, (policy slips).

On September 2, 1970, PHIL POLITI was arrested leaving the City of Newburgh, New York and was found to be in possession of a quantity of gambling slips and charged with POSSESSION OF GAMBLING RECORDS.

On December 14, 1970, PHIL POLITI, SAM MANGANO, RICHARD SAPONARA, ROBERT PETERS, HARRY WEISS, and ANTHONY POLITI were observed in MARTY'S LUNCHEONETTE, located in a Shopping Center in Ardsley, New York. A conversation was overheard between SAM MANGANO and ANTHONY POLITI relative to MANGANO'S failure to make one of his policy pickups. Shortly thereafter this, PETE VARIANO and an unidentified white male, entered MARTY'S LUNCHEONETTE. PETE VARIANO had a conversation with ANTHONY POLITI in which he berated ANTHONY POLITI for MANGANO not making the aforesaid pickup.

Throughout the course of this investigation, PHIL POLITI has normally operated a 1966 Jeep PR7417 N.Y., registered to JOHN SATERIALE, 80 Williams St., Mt. Vernon, N.Y. Investigators have observed PHIL POLITI in this vehicle at several locations in the Town of Greenburgh and have further observed RICHARD SAPONARA placing numerous white envelopes commonly used in gambling operations on the seat of the vehicle then occupied by PHIL POLITI.

Surveillance has further indicated that PHIL POLITI has driven the aforesaid vehicle to the FORT MONTGOMERY INN in FORT MONTGOMERY, NEW YORK, on a daily basis.

Surveillance has also indicated that PHIL POLITI would drive this same subject vehicle to various locations in Dutchess, Putnam and Orange Counties, where he would regularly make stops. This

vehicle has been followed to a location in Rockland County and is parked close to the particular building which is the subject of this application. The vehicle was observed at this same location on January 21, 22 and 23, 1971.

Your deponent has been a peace officer for 17 years and has been involved in numerous investigations relative to the elimination of policy banks and other policy operations in the enforcement of the State Gambling Statutes. In the course of my duties, I have made numerous arrests for violation of the New York State Gambling Statutes.

Further, that since the said property, possession of which is a crime, constitutes evidence of a crime that is used in a policy operation, may be easily and quickly destroyed or disposed of, and that it will be removed or destroyed if not seized forthwith, that the executing officers need not give notice of their authority.

Based upon the foregoing facts, there is probable cause to believe that PHIL POLITI is engaged in an illegal policy operation and that the location described as a certain bungalow or summer type cottage located in the extreme northeast corner of the BOBIN COUNTRY CLUB AND DAY CAMP, a/k/a BOBIN CABINS & MOTELS, off Route 9W, Rockland Lake, Rockland County, New York, the rear of the said cabin facing a chain link fence bordering Rockland State Park and there being no additional buildings to the rear or left of the structure, and for the 1966 green Jeep PR7417 New York, and it is requested that a Search Warrant be granted in the form appended for the aforementioned bungalow and vehicle.

WHEREFORE, your deponent respectfully requests the Court to issue a Search Warrant and Order of Seizure for the aforementioned

individual, described premises and vehicle for:

> any gambling apparatus, documents, records of bets, money, receipts for money wagered, bets on horses and sporting events, bets in the game commonly known as policy, names and code names of players, runners, pickup men, comptrollers, telephone numbers, address books, pencils, pads and other gambling paraphernalia commonly used in and associated with bookmaking, policy, and other allied crimes,

and directing that if such property or any part thereof be found that it be seized and brought before this Court.

Sworn to before me this

16 day of January, 1971

NEW YORK STATE POLICE
GENL. 14 10-23-62

EXHIBIT D - SEARCH WARRANT AND SUPPORTING AFFIDAVIT OF D.J. REIDY AND FEDERAL SEARCH WARRANT AND SUPPORTING AFFIDAVIT OF BOB C. REUTTER ANNEXED TO FOREGOING AFFIDAVIT

SEARCH WARRANT (Sec. 690 CCP)

Supreme COURT

STATE OF NEW YORK
COUNTY OF Orange) ss.:

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:

TO ANY POLICE OFFICER IN THE NEW YORK STATE POLICE, STATE OF NEW YORK

PROOF BY *Affidavit* HAVING BEEN MADE THIS DAY BEFORE ME BY Investigator DANIEL J. REIDY, of the New York State Police, at Troop F Headquarters, Middletown, New York,

THAT THERE IS PROBABLE CAUSE FOR BELIEVING THAT** property constituting evidence of a crime or tending to show that a particular person committed a crime and possession of which is unlawful.

YOU ARE THEREFORE COMMANDED, between the hours of 8:00 a.m. & 9:00 p.m.

TO MAKE AN IMMEDIATE SEARCH OF*** a 1964 blue Oldsmobile convertible bearing New York registration 5767-VX

OCCUPIED BY PHILLIP POLITI AND OF THE PERSON OF PHILLIP POLITI AND OF ANY OTHER PERSON WHO MAY BE FOUND TO HAVE SUCH PROPERTY IN HIS POSSESSION OR UNDER HIS CONTROL OR TO WHOM SUCH PROPERTY MAY HAVE BEEN DELIVERED, FOR**** monies, papers, pads, tablets, adding machines, and any other paraphernalia used to record number bets and horse bets, said bets are possessed illegally to Promote Gambling 1st. and/or 2nd. Degree. No Notice of Intent or Authority need be given prior to the execution of this warrant.

AND IF YOU FIND ANY SUCH PROPERTY OR ANY PART THEREOF TO BRING IT BEFORE ME AT my office

DATED AT Village OF Goshen, COUNTY OF Orange,
N.Y., THIS 22nd. DAY OF November, 19 71.

Justice of the Supreme Court
TITLE

* STRIKE OUT WHICHEVER IS NOT APPLICABLE

IN THE MATTER

OF

The Application of Investigator D.J. Reidy, a Peace Officer of the New York State Police,to wit an Investigator assigned to Troop "F" Headquarters at Middletown, New York for a warrant authorizing the search of a 1964 Oldsmobile Convertible color blue bearing New York registration 5767-YX registered to and operated by PHILIP POLITI of 60 Darwood Place, Mount Vernon, New York and the person of PHILIP POLITI and any other person found to be in this described vehicle and also authorizing the search of a 1971 Pontiac,4 door sedan, color black bearing New York registration 4376-TZ and any person present therein for the following property, monies, pads, papers, tablets, adding machines, tabulating equipment, and any other paraphernali used in association with the recording of number bets, or horse bets which are used to promote gambling, which constitutes evidence of a crime which is possessed with the intent to be used in the commission of the crime of Promoting Gambling in the First and/or Second Degree.

Such property used or possessed with the intent to be used as a means of committing a crime or tending to show that a particula person committed a crime.

STATE OF NEW YORK :
SS.:
COUNTY OF ORANGE :

D.J. REIDY, being duly sworn, deposes and says:

1. I am an Investigator assigned to the Bureau of Criminal Investigation at Troop "F", Headquarters of the New York State Police and am presently assigned to investigate illegal gambling operations.

2. Based on my assignment I have information of a perso knowledge that being surveillances conducted by me on the follow listed dates upon PHILIP POLITI who is personally known to me and is the operator of the above described 1964 blue Oldsmobile convertible bearing New York registration 5767-YX. On 11/8/71 I followed PHILIP POLITI in the above described blue Oldsmobile from Fort Montgomery, New York along Route 9W into the West Point Academy Grounds, at 4:00 P.M. on this date POLITI parked his car, got out, looked around in a suspicious manner checking his surroundings. At 4:05 P.M. a colored male operating the described 1971 black Pontiac New York registration 4376-TZ pull behind POLITI's vehicle at which time PHILIP POLITI got into the 1971 black Pontiac and I observed this colored male pass PHILIP POLITI a small packet of white envelopes. PHILIP

POLITI then got out of the blue Pontiac and then drove in a very suspicious manner that being an unusually slow rate of speed and did in fact stop his vehicle on one occasion and get out and stand next to it looking around as if to check for any vehicles that were following.

3. On 11/9/71 I again personally followed PHILIP POLITI in his 1964 blue Oldsmobile convertible up 9W from the Village of Fort Montgomery, New York whereby he got off of 9W onto Route 293 and then parked his vehicle along the shoulder of the road adjacent to the West Point Military Academy Golf Course, this was at 4:00 P.M. At 4:07 P.M. the colored male operating the 1971 black Pontiac bearing New York registration 4376-TZ pull in front of POLITI's vehicle. At this time POLITI got out of his vehicle and looked around checking his surroundings and then got into the black Pontiac and met with this colored male for approximately 3 minutes when Mr. POLITI was observed getting out of the black 1971 Pontiac he was observed putting something into his right hand outside coat pocket. PHILIP POLITI was then followed from this location across Route 293 where he was again driving at an unusually slow rate of speed then across the Long Mountain Parkway in Orange County onto the Palisades Parkway heading south.On two occasions POLITI would indicate that he was turning off to make a right hand turn and drive up to the exit but then pulled back on the main portion of the road looking around to see if any cars were following him. At 5:30 P.M. POLITI pulled to the rear of a shopping center located off of Route 202 at Mount Ivy, New York and got into a 1966 dark blue Pontiac bearing New York registration 6409-YC operated by a white famale. POLITI then got out of the car at approximately 5:35 P.M. and drove across Route 202 where he made a U-turn in an apartment house complex then went down two other side back roads off of Route 202 and on both roads made a U-turn then came back out to his original starting point, Route 202, and went west until he reached the entrance for the Palisades Parkway, at which time he proceeded south on the Palisades Parkway to the Tappan Zee Bridge where after paying his toll pulled off on to the shoulder of the Thruway got out of the car acting in a very suspicious manner that being looking around and waiting in front of his vehicle. At this time the surveillance was discontinued.

4. On 11/11/71 I again followed PHILIP POLITI from the Village of Fort Montgomery, New York at 3:50 P.M. He proceeded north on Route 9W again driving at an unusually slow rate of speed that being 30 MPH in a 55 MPH zone. POLITI got off at Route 293, turned left at the intersection underneath Route 9W proceeded a short distance down the road to a Service cutoff area which is partially obscured by heavy woods, stopped his vehicle got out and looked around to check his surroundings. At 4:10 P.M. the colored male appeared operating a 1971 black Pontiac New York registration 4376-TZ and was observed by me walking up to PHILIP POLITI's car and handing him a pocket of envelopes. At this time PHILIP POLITI after receiving the envelopes went across Route 293 to the Palisades Parkway and

south also driving at a slow rate of speed and again would indicate that he was getting off the Parkway but in fact would drive up to the exit ramp and then pull back on to the main artery after checking to see if any vehicles that were behind him had indicated that they too were getting off. POLITI continued across the Palisades Parkway and got off at Route 202 and again at 5:35 P.M. met with a white female who is operating a 1966 2 door dark blue Pontiac bearing New York registration 6409-YC. POLITI was observed when he met her after getting out of his vehicle he looked around in a very suspicious manner checking his surroundings and then got into her vehicle. POLITI then after meeting with this female for approximately 5 to 7 minutes, got back in his vehicle and drove again down the Palisades Parkway to the Tappan Zee Bridge also at a very slow rate of speed. At this time this surveillance was discontinued.

5. On 11/12/71 PHILIP POLITI was again followed up Route 9W from the Village of Fort Montgomery, New York and again met with this colored male operating the 1971 black Pontiac New York registration 4376-TZ at a secluded area that being a cut-off off of Route 293 near the West Point Golf Course. POLITI again acted at the meeting in a suspicious manner that being when he got out of his car to get into the vehicle operated by the colored male he would stop and look around checking his surroundings to see if he could observe any persons watching him. After meeting with this colored male at approximately 4:07 P.M. POLITI again headed down the Palisades Parkway and also was driving at an unusually slow rate of speed and checking his surroundings especially vehicles that appeared to be following him. At 5:30 P.M. PHILIP POLITI pulled to an overlook off of the Central Highway at Haverstraw, New York and again after acting in a suspicious manner got into the 1966 2 door dark blue Pontiac operated by the white female bearing New York registration 6409-YC, then after meeting with her for approximately 15 minutes got out of her vehicle and ran back to his vehicle, got in and headed to the Palisades Parkway. POLITI at this time proceeded from the Palisades on to the New York State Thruway and across the Tappan Zee Bridge, immediately upon paying his toll he pulled to his right to the telephones and got out of his vehicle and stood next to it watching his surroundings and generally acting in a suspicious manner. At this time it was 6:10 P.M. and POLITI got back in his vehicle and proceeded across the New York State Thruway to the Cross County Parkway to North Columbus Avenue in Mount Vernon, New York and went to his residence at 60 Darwood Place, Mount Vernon, New York. At this time the surveillance was discontinued.

6. Further on 11/15/71, 11/16/71, 11/17/71, 11/18/71, and 11/19/71 I have personally conducted a surveillance upon PHILIP POLITI and on each of these dates at approximately 4:00 P.M. PHILIP POLITI drives thru the Village of Fort Montgomery and proceeds to the West Point area of Route 293 whereupon he meets with this colored male the operator of the

1971 black Pontiac bearing New York registration 4376-TZ all being in a suspicious manner and at different locations along Route 293 and on each of these dates and occasions I have observed PHILIP POLITI getting into this 1971 black Pontiac and when he gets out it appears to me that he is placing some type of envelopes in his right hand outside carcoat jacket. Each of these occasions POLITI then proceeds down the Palisades Parkway or across the Bear Mountain Bridge which at a later time at approximately 5:30 P.M. he meets with this white female operator of a 1966 2 door blue Pontiac sedan bearing New York registration 6409-YC and while driving to each of these meets POLITI acts in a very suspicious manner that being pulling off to the side of the road getting out of his car and checking to see if any persons are following him. Also it has been noted on occasion that POLITI will go up dead end roads and sit and wait at the end of the road to see if any persons come in behind him, then leave and go to his next meeting.

7. Based on my experience as an Investigator assigned to investigate illegal gambling operations and the fact that I am a recognized expert in the field of illegal gambling operation it appears from my personal surveillances of the above named subjects that they are presently conducting an illegal gambling operation and that these meets that are described herein are meets between PHILIP POLITI and the other two described persons for the purpose of conducting an illegal gambling operating and actual passes of horse and number bets are made between these parties at these described times.

8. Further, your deponent has knowledge that this property for which this search warrant is being made is of a type and size that can be easily and quickly destroyed and disposed of if your deponent announces his authority and intent in the execution of this search warrant. Deponent further requests that no knowledge of authority or intent be given prior to the execution of this search warrant.

9. Based upon the foregoing personal knowledge of myself that there is probable cause to believe that such property is used and possessed with the intent to be used as a means of committing a crime or offense or property constituting evidence of crimes maybe found in either of the above described vehicles number one being a 1964 blue Oldsmobile convertible bearing New York registration 5767-YX or the 1971 black Pontiac bearing New York registration 4376-TZ or upon the person or persons present in these described vehicles.

10. Wherefore, I respectfully request that the court issue a warrant and order of seizure in the form annexed, authorizing the search of the following two vehicles. 1. 1964 blue Oldsmobile convertible bearing New York registration 5767-YX and 2. 1971 black Pontiac bearing New York registration 4376-TZ and of the person or persons found present in these vehicles, for any monies, pads, papers, tablets, envelopes adding machines, tabulating equipment or any other paraphernalia used in association with the recording of number and/or horse

kets and directing that if such property or evidence or any part thereof be found that it be seized and brought before this court for any disposition that the court may deem proper.

11. Further, that the records of the New York State Police at Middletown, New York reveal that PHILIP POLITI along with others were arrested on 1/26/71 in Rockland County, New York for Promoting Gambling 1st Degree and Possession of Gambling Records 1st Degree in that he was directing involved in a policy bank.

12. No previous application in this matter has been made in this or any other court or to any other Judge, Justice or Magistrate.

David J. Lidy

Sworn to before me this
22nd of November, 1971

Form A. O. 104 — Affidavit for Search Warrant

United States District Court

FOR THE

SOUTHERN DISTRICT OF NEW YORK

330a

Magistrate's ~~Commissioner's~~ Docket No. 72

Case No. 945

UNITED STATES OF AMERICA

VS.

THE PREMISES KNOWN AS 94 GARDEN ST. POUGHKEEPSIE, NEW YORK, FURTHER DESCRIBED AS A TWO STORY, ONE FAMILY FRAME RESIDENTIAL DWELLING

AFFIDAVIT FOR SEARCH WARRANT

BEFORE

Name of Commissioner — Address of Commissioner

The undersigned being duly sworn deposes and says:

That he (has reason to believe) (is positive)[1] that (~~on the premises known as~~) (on the premises known as)

94 GARDEN STREET, POUGHKEEPSIE, NEW YORK, FURTHER DESCRIBED AS A TWO STORY, ONE FAMILY FRAME RESIDENTIAL DWELLING

in the Southern District of New York

there is now being concealed certain property, namely (here describe property) gambling paraphernalia, gambling records, records and lists of participating gamblers and other personnel, names and addresses of persons who transmit bets and wagers to the criminal gambling operation, counting and run-down sheets, books of account, checks, money orders and United States currency

which are (here give alleged grounds for search and seizure) evidence, instrumentalities and fruits of the crimes of conspiracy and interstate travel in aid of racketeering enterprise (gambling) and in transmission of wagering information in violation of Title 18, United States Code, Sections 1955 and 371

And that the facts tending to establish the foregoing grounds for issuance of a Search Warrant are ~~set forth~~ set forth in the attached affidavit.

Signature of Affiant.

Official Title, if any.

Sworn to before me, and subscribed in my presence, , 19

United States Commissioner.